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# Transcript of Hearing - Day 2

**Date:** February 1, 2022

**Case:** EYA Development, LLC

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Transcript of Hearing - Day 2  
February 1, 2022

1 (224 to 227)

<p>224</p> <p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS</p> <p>2 FOR MONTGOMERY COUNTY, MARYLAND</p> <p>3 -----x</p> <p>4 In Re: :</p> <p>5 EYA DEVELOPMENT, LLC, and :</p> <p>6 BL STRATHMORE, LLC : Case No. LMA H-143</p> <p>7 -----x</p> <p>8</p> <p>9 HEARING - Day 2</p> <p>10 (Held Remotely)</p> <p>11 Before Hearing Examiner Derek Baumgardner</p> <p>12 Rockville, Maryland</p> <p>13 Tuesday, February 1, 2022</p> <p>14 9:31 a.m.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Job: 430047</p> <p>24 Pages: 224 - 404</p> <p>25 Transcribed by: Molly Bugher</p>	<p>226</p> <p>1 CONTENTS</p> <p>2 PAGE</p> <p>3 OPENING STATEMENTS</p> <p>4 By Mr. Shaffer 243</p> <p>5 TESTIMONY</p> <p>6 Jack McLaurin 228</p> <p>7 Kip Edwards 244</p> <p>8 Arthur Ribeiro 276</p> <p>9 Vanessa Lide 287</p> <p>10 Gerilee Bennett 304</p> <p>11 Katy Prebble 324</p> <p>12 Sister Nikerson 331</p> <p>13 Doug Burdin 339</p> <p>14 Josh Sloan 359</p> <p>15 Katie Wagner 352</p> <p>16</p> <p>17 CLOSING STATEMENTS</p> <p>18 By Ms. Girard 381</p> <p>19 By Mr. Shaffer 390</p> <p>20 By Mr. Burdin 393</p> <p>21 ///</p> <p>22 ///</p> <p>23 ///</p> <p>24 ///</p> <p>25 ///</p>
<p>225</p> <p>1 APPEARANCES</p> <p>2 ON BEHALF OF MONTGOMERY COUNTY OFFICE OF ZONING AND</p> <p>3 ADMINISTRATIVE HEARINGS:</p> <p>4 DEREK BAUMGARDNER, HEARING OFFICER</p> <p>5 ON BEHALF OF THE APPLICANT:</p> <p>6 ERIN GIRARD, ESQUIRE</p> <p>7 MILES &amp; STOCKBRIDGE</p> <p>8 11 N. Washington Street Suite 700</p> <p>9 Rockville, MD 20850-4229</p> <p>10 Phone: 301-762-1600</p> <p>11 ON BEHALF OF GARRET PARK ESTATES and WHITE FLINT CIVIC</p> <p>12 ASSOCIATION:</p> <p>13 DAVID SHAFFER, ESQUIRE</p> <p>14 DAVID SHAFFER LAW</p> <p>15 1629 K Street NW, Suite #300</p> <p>16 Washington, DC 2000</p> <p>17 Phone: 202-508-1490</p> <p>18 ALSO PRESENT TELEPHONICALLY:</p> <p>19 DOUG BURDIN</p> <p>20 VANESSA LIDE</p> <p>21 GERILEE BENNETT</p> <p>22 ARTHUR RIBEIRO</p> <p>23 KIP EDWARDS</p> <p>24 CYNTHIA WEITZ</p> <p>25 KATY PREBBLE</p>	<p>227</p> <p>1 EXHIBITS</p> <p>2 NUMBER DESCRIPTION PAGE</p> <p>3</p> <p>4 Exhibits ? Lide photos 293</p> <p>5 Exhibit 35 Grading and utility 233</p> <p>6 Exhibit 49C McLaurin resume 229</p> <p>7 Exhibit 58B Renderings 236</p> <p>8 Exhibit 62 Neighborhood map 231</p> <p>9 Exhibit 67 Ribeiro testimony 278</p> <p>10 Exhibit 85 Diagram 368</p> <p>11 Exhibit 86 Diagram 368</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">228</p> <p>1 PROCEEDINGS</p> <p>2 HEARING EXAMINER BAUMGARDNER: So we are</p> <p>3 officially on the record in LMA 143. We are on day two</p> <p>4 beginning with Ms. Girard's next witness. Ms. Girard, the</p> <p>5 floor is yours.</p> <p>6 MS. GIRARD: Okay, thank you. My next witness is</p> <p>7 Jack McLaurin.</p> <p>8 HEARING EXAMINER BAUMGARDNER: I see you there,</p> <p>9 sir. Please give us your full name for your business</p> <p>10 address, and an email address, please.</p> <p>11 MR. MCLAURIN: Okay. My full name is Jack, middle</p> <p>12 initial F, McLaurin. That's M-C-L-A-U-R-I-N. For</p> <p>13 clarification purposes, the legal name on my professional</p> <p>14 license, my architectural license, is John. But</p> <p>15 professionally I go by Jack. My company name is EYA, LLC.</p> <p>16 My business address is 4800 Hampden Lane; H-A-M-P-D-E-N Lane,</p> <p>17 Number 300, Bethesda, Maryland 20814.</p> <p>18 HEARING EXAMINER BAUMGARDNER: And a good email</p> <p>19 address for you, sir?</p> <p>20 MR. MCLAURIN: It's JMclaurin@EYA.com. So it's</p> <p>21 first initial J, McLaurin; M-C-L-A-U-R-I-N @EYA.com.</p> <p>22 HEARING EXAMINER BAUMGARDNER: Thank you, sir.</p> <p>23 And can you please raise your right hand?</p> <p>24 Do you swear or affirm under penalties of perjury</p> <p>25 that the testimony you are about to give is the truth, the</p>	<p style="text-align: right;">230</p> <p>1 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer or Mr.</p> <p>2 Burdin, any further voir dire of the -- of Mr. McLaurin's</p> <p>3 resume or background or experience?</p> <p>4 MR. SHAFFER: None, sir.</p> <p>5 MR. BURDIN: Doug Burdin here. I don't have any.</p> <p>6 HEARING EXAMINER BAUMGARDNER: All right. Having</p> <p>7 reviewed the resume and the voir dire thus far, I am</p> <p>8 admitting Mr. McLaurin as an expert for the purposes of this</p> <p>9 hearing in architecture.</p> <p>10 MS. GIRARD: Thank you. Mr. McLaurin, have you</p> <p>11 looked at the -- are you familiar with the property?</p> <p>12 MR. MCLAURIN: Yes, I am.</p> <p>13 MS. GIRARD: Of the local map amendment?</p> <p>14 MR. MCLAURIN: Yes, I am.</p> <p>15 MS. GIRARD: And were you present yesterday for</p> <p>16 the testimony of Mr. Sloan regarding compatibility with the</p> <p>17 surrounding area?</p> <p>18 MR. MCLAURIN: Yes, I was.</p> <p>19 MS. GIRARD: Have you had an opportunity to look</p> <p>20 at the plans in relation to the surrounding area? And can</p> <p>21 you opine as to the compatibility of the proposed massing of</p> <p>22 the structures compared to the surrounding community?</p> <p>23 MR. MCLAURIN: Sure. Sure. Yes, I have had a</p> <p>24 chance to look at it and I would love to talk about it</p> <p>25 because I think we have a pretty good story to tell when it</p>
<p style="text-align: right;">229</p> <p>1 while truth and nothing but the truth?</p> <p>2 MR. MCLAURIN: Yes, I do.</p> <p>3 HEARING EXAMINER BAUMGARDNER: All right. Ms.</p> <p>4 Girard, the witness is yours.</p> <p>5 MS. GIRARD: Great. Mr. McLaurin, what's your</p> <p>6 occupation?</p> <p>7 MR. MCLAURIN: I'm an architect.</p> <p>8 MS. GIRARD: And how long have you been engaged in</p> <p>9 this occupation?</p> <p>10 MR. MCLAURIN: I graduated in 1987 from Virginia</p> <p>11 Tech with a bachelor of architecture and have been practicing</p> <p>12 ever since. So about 35 years.</p> <p>13 MS. GIRARD: And I would just know that Mr.</p> <p>14 McLaurin's resume is in the record as Exhibit 49C. Mr.</p> <p>15 McLaurin, have you ever testified before any planning boards,</p> <p>16 OZAHs, any -- as an expert witness in architecture?</p> <p>17 MR. MCLAURIN: Yes. I have not been in front of</p> <p>18 the OZAH in Montgomery County, but I have just testified in</p> <p>19 essentially every other jurisdiction, board, mayor and</p> <p>20 council as appropriate. They all vary, but Montgomery</p> <p>21 County, Fairfax County, City of Fairfax, City of Rockville,</p> <p>22 City of Alexandria, as well as other jurisdictions up and</p> <p>23 down the East Coast.</p> <p>24 MS. GIRARD: Then I would like to move Mr.</p> <p>25 McLaurin's admission as an expert in architecture.</p>	<p style="text-align: right;">231</p> <p>1 comes to that. And I would just like to mention, Mr. Lester</p> <p>2 in his testimony kind of alluded to in and Mr. Sloan alluded</p> <p>3 to it as well too. But when we create infill communities</p> <p>4 like this which have surrounding context around our immediate</p> <p>5 site, it's important that we focus on compatibility.</p> <p>6 And one aspect of compatibility is height and</p> <p>7 scale. So I think we, after studying the property, we come</p> <p>8 up with a land plan that I believe addresses that. And if I</p> <p>9 could ask that we pull up Exhibit 62, I would like to start</p> <p>10 with -- and I'm on page -- PDF page 4 and figure 1, which is</p> <p>11 the vicinity/staff defined neighborhood map. And I would</p> <p>12 like to start by just talking about the surrounding community</p> <p>13 that's highlighted in blue.</p> <p>14 HEARING EXAMINER BAUMGARDNER: What page is that,</p> <p>15 sir?</p> <p>16 MR. MCLAURIN: I'm on Exhibit 62. It is PDF page</p> <p>17 4, which is page 3 of the exhibit. And it's figure -- there</p> <p>18 you go. It's that figure right there. So immediately I</p> <p>19 would just like to talk about the surrounding context. And</p> <p>20 you can see to the north side of Strathmore are single-family</p> <p>21 homes. Predominantly those homes are single-story as they</p> <p>22 front Strathmore, with a setback of approximately 33.</p> <p>23 And when I say setback, I want to qualify it from</p> <p>24 the building face to the curb. The legal zoning setback</p> <p>25 would be measured probably to the property line. But that's</p>

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<p style="text-align: right;">232</p> <p>1 an imaginary line that people cannot perceive in reality. So  2 I like to, in discussions of height and scale, I like to talk  3 about the distance from the building to the curb, so they do  4 vary, but they are sort of in the range of about 30 feet. So  5 single-story and about 30 feet along Strathmore.  6 Then when you to the block towards its west  7 between Stillwater Avenue and Orleans Way, they bump up to  8 two stories and you see the sides there that kind of orient  9 towards Strathmore and then the drop back down to the west of  10 Orleans to single-story. The Symphony Park community is four  11 stories in height. And I would note it's three stories with  12 a roof, but that roof design is of a mansard form, which has  13 a very vertical face to it. So it does increase the  14 perceived height along Strathmore.  15 It's not a two-story with what we would call a  16 laid-back gable. It has front facing gables and then mansard  17 roofs which really do truly give it more of a four-story  18 façade there. And the setbacks along for that portion of  19 Symphony Park along Strathmore range from about 40 to 50  20 feet.  21 And then if we go over towards the east, the St.  22 Angela Hall is a single-story, but that is being demolished.  23 And then further down towards the east is the Holy Cross  24 church and school, which is single to multiple story, two-  25 story, but even the single-story has volume. Being the</p>	<p style="text-align: right;">234</p> <p>1 setback, again, measuring to the proposed curb, not the  2 existing curb, but what would be the proposed curb. And the  3 heights there are two stories with roof above. The  4 Brandywine building further to the east is a three-story  5 structure with roof, but as it goes further to the east, Mr.  6 Sloan testified the grade of the road steps up and continues  7 up, but the building does not go up with it.  8 So the building is actually cut into the grade  9 there. And then there is a retaining wall between the  10 building and Strathmore. So that delta in grade is about 12  11 feet from the entrance of Brandywine up towards that  12 northeast corner of the Brandywine building closest to  13 Strathmore right there. That's right. It's about 12 feet.  14 So you essentially lose a story in height as is perceived  15 from Strathmore in the great goes up, but the building stays  16 consistent.  17 So what is generally a three-story building where  18 the roof really kind of gives you a perceived height of about  19 two stories plus roof along that road. So we feel like  20 that's very compatible over there on that side. And that  21 setback of the building is in excess of 50 feet. I think  22 it's about 54 feet measured to the curb. There is a turret  23 element on the northwest corner of that which projects into  24 that setback a little bit. So maybe it's mid-40s. I don't  25 know for sure.</p>
<p style="text-align: right;">233</p> <p>1 nature of a church it has a very large presence.  2 And I would like to say I'm speaking in height in  3 terms of stories because in feet I have not surveyed any of  4 these existing properties. I am familiar with the Symphony  5 Park community in that they have 10 foot ceilings. I was  6 actually the architect of record before I came over to EYA,  7 for Symphony Park. So I am familiar. They have taller  8 ceiling heights. But without that information directly  9 accessible to me, I like to speak in height in terms of  10 stories, not in terms of feet. And then the -- and so the  11 Holy Cross school has the church facilities which are multi-  12 height.  13 If we can go to the -- I think it's probably best  14 to go to Exhibit 35, which is the grading and utility  15 exhibit. I would just like to point out, pursuant to some of  16 what Mr. Sloan testified towards -- I will wait for it to  17 come up on the screen. The idea of this land plan is to  18 adjust compatibility with the adjoining, surrounding  19 community, which is why we largely located single-family  20 detached homes along Strathmore. And those are two stories  21 with roofs along Strathmore. And those setbacks for context  22 purposes, range from about 40 to 50 feet.  23 It's a little tighter on the west side and then it  24 extends out as you go -- travel further east along  25 Strathmore. So we are in the range of about 40 to 50 feet in</p>	<p style="text-align: right;">235</p> <p>1 I'm not the architect of record for that building,  2 nor the designer, but we have coordinated with Brandywine's  3 architect on that. As that footprint gets to be refined we  4 can probably get more precise numbers later in the  5 entitlement process. But generally speaking, the bulk of  6 that building face is about 54 feet setback. I think that  7 kind of addresses the compatibility.  8 Our homes internal to the site are four stories,  9 but there are three stories with a setback loft. So the  10 street face is a three-story façade with a loft that setback  11 anywhere from 10 to 12 feet from the front, but they do end  12 up at a four-story over there. There is grade which will  13 affect that where we might be burying some of those levels.  14 So the perceived height is a little bit lower. But again,  15 that's internal to the site and we start to measure the  16 Brandywine building as compatible to our townhomes across the  17 Street A there. But I think that's really what I want to get  18 across. If you have any questions --  19 MS. GIRARD: Mr. Lester -- or Mr. Lester. I'm  20 sorry. Mr. McLaurin, could you please walk us through the  21 renderings? They were on the screen yesterday.  22 MR. MCLAURIN: Oh, yeah.  23 MS. GIRARD: Exhibit 58B.  24 MR. MCLAURIN: Thanks for bringing that up, Ms.  25 Girard. So if I could ask you to pull up Exhibit 58B. And</p>

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<p style="text-align: right;">236</p> <p>1 these are conceptual renderings. We are still very early in  2 the process, but this is not only to begin the conversation  3 of architectural style, although it will continue to evolve  4 later on, but it is really to have this conversation of  5 height and scale.  6 And you can see this is a view -- you see on the  7 bottom right hand corner is a key plan legend which shows you  8 the view. So we are kind of across the northern side of  9 Strathmore looking to the south at our main entrance. And  10 you see the single-family homes on the right-hand side.  11 That's the two-story with roof form there. And then you see  12 the Brandywine which kind of gives you the idea of the two  13 stores on the left-hand side. I know it gets kind of cut off  14 a little bit there, but you will see the three stories as you  15 go down the street.  16 If you proceed to the two slides in advance you  17 will see a higher -- I think you might have gone too far.  18 I'm on page 3 now. There you go.  19 You will see a higher view of that. It was  20 important for us in these -- the development of these  21 renderings both to give as best as we can inaccurate  22 depiction of the road dimension, the Strathmore Road  23 dimension, as well as the green buffer and then the service  24 road. So we elevated a little bit in height to not only  25 continue to show the height and scale of our proposed</p>	<p style="text-align: right;">238</p> <p>1 can see in the key plan on the bottom right, as you would  2 leave the Academy of Holy Cross specifically and then what  3 the community might look like, what the street might feel  4 like, what the sidewalk system looks like. And then you  5 would see the nature trail as it terminates to the sidewalk,  6 directly in the foreground. You see our townhomes on the  7 background on the left-hand side, again, that three-story  8 façade directly adjacent to the street with a setback loft  9 level. And then you will see the three-story Brandywine  10 building on the right-hand side over there.  11 HEARING EXAMINER BAUMGARDNER: And then going to  12 the slide labeled image 5 and description of image 5.  13 MR. MCLAURIN: So this is a view as you would look  14 south east on the site, sort of if you were on one of our  15 roof terraces, on one of our front garage townhomes on the  16 left-hand side of the site. And you are overlooking the park  17 space and the height and massing of the townhomes, again  18 being a three-story façade with the loft setback. But the  19 idea is to kind of show scale of that park space. And then  20 the stream valley buffer on the right hand side with of the  21 townhomes in the background.  22 And I believe that's the last rendering. Again,  23 these are very conceptual. We are super early in the  24 process, but at least there is an idea of height and scale in  25 the renderings. Then we always try to make sure we across</p>
<p style="text-align: right;">237</p> <p>1 development, but also of the Strathmore road there.  2 And then there is some -- a couple about the  3 renderings internal to the site if you're interested. But  4 you know, they don't directly address this issue of  5 compatibility with the surrounding neighborhood.  6 MS. GIRARD: I think we can scroll through them,  7 just so they have an explanation in the record. I think that  8 would be helpful.  9 HEARING EXAMINER BAUMGARDNER: So we are scrolling  10 through. Let me just get the number. Exhibit 58B. We are  11 currently on page 3 going through -- which is labeled as  12 description of image 2, going to the description of image 3  13 next.  14 MR. MCLAURIN: Yeah. So what this is, as you exit  15 the community north towards Strathmore, this is a view of  16 what you might see there with the existing neighborhood  17 beyond the buffer. The Brandywine building would be to the  18 right and the single-family homes would be to the left. And  19 the purpose of this was to really give you an idea of scale  20 of the street exiting the community, possible signage, the  21 median, the landscaping, and then the sidewalk, streetscape  22 system on either side.  23 HEARING EXAMINER BAUMGARDNER: Scrolling through  24 to the page that says, description of image 4.  25 MR. MCLAURIN: Right. And so this is a view, you</p>	<p style="text-align: right;">239</p> <p>1 the idea of quality of materials and quality of design, even  2 though the design will continue to evolve, but it's important  3 to get that across as early as possible.  4 MS. GIRARD: Thank you. Mr. McLaurin, in your  5 expert opinion as an architect are the proposed use is  6 suitable for the site and compatible with the existing and  7 improved adjacent development?  8 MR. MCLAURIN: Yes, I believe they are.  9 MS. GIRARD: And in your expert opinion as an  10 architect, will the proposed development adversely affect the  11 character of the surrounding neighborhood?  12 MR. MCLAURIN: No, I really don't think they do.  13 Not only just from the site design standpoint, but also the  14 type of homes and buildings that we are providing.  15 MS. GIRARD: That's all I have for Mr. McLaurin.  16 HEARING EXAMINER BAUMGARDNER: Thank you, Ms.  17 Girard. Any cross-examination of this witness? We will  18 start with Mr. Shaffer.  19 MR. SHAFFER: I have no questions at this time.  20 HEARING EXAMINER BAUMGARDNER: Okay. Thank you,  21 sir. Mr. Burdin?  22 MR. BURDIN: Yeah, I just have two quick  23 questions.  24 HEARING EXAMINER BAUMGARDNER: And Mr. Burdin, one  25 second. For the benefit of the court reporter, this is Doug</p>

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<p style="text-align: right;">240</p> <p>1 Burdin; D-O-U-G, B-U-R-D-I-N. He is a party of record.</p> <p>2 MR. BURDIN: Okay.</p> <p>3 HEARING EXAMINER BAUMGARDNER: Go ahead Mr.</p> <p>4 Burdin.</p> <p>5 MR. BURDIN: Ms. McLaurin, did you prepare or</p> <p>6 approve the renderings we were just looking at?</p> <p>7 MR. MCLAURIN: I did not prepare them. I did</p> <p>8 approve them.</p> <p>9 MR. BURDIN: Okay. The sidewalk on the north side</p> <p>10 of Strathmore in the buffer zone that went from Strathmore to</p> <p>11 the access road, that does not currently exist, correct?</p> <p>12 MR. MCLAURIN: No, I don't think it does.</p> <p>13 MR. BURDIN: Okay. And it's not in the proposal;</p> <p>14 is that correct?</p> <p>15 MR. MCLAURIN: I will defer. I don't believe it</p> <p>16 is, but I will defer to one of the experts on the actual</p> <p>17 technical aspects of the site plan. I don't think we're</p> <p>18 showing a sidewalk. I think that's the -- that's the bus</p> <p>19 shelter. That's the paving associated with the bus shelter.</p> <p>20 MR. BURDIN: Well, if we just --</p> <p>21 MR. MCLAURIN: Is it possible to go back to the</p> <p>22 rendering exhibit?</p> <p>23 MR. BURDIN: Yeah. It's a sidewalk that goes</p> <p>24 north from Strathmore to the Strathmore access road making it</p> <p>25 seem like you can walk across the intersection and easily get</p>	<p style="text-align: right;">242</p> <p>1 sidewalk is existing today. That's right. That sidewalk is</p> <p>2 there today. I'm looking at it, the plan, Exhibit 35. If</p> <p>3 that's still up.</p> <p>4 MR. BURDIN: Okay. Well, I don't want to belabor</p> <p>5 this. Maybe somebody who lives on Strathmore access can</p> <p>6 confirm whether or not that south/north sidewalk is there.</p> <p>7 This is important for potential, later testimony. I'm not</p> <p>8 just belaboring this point for no reason.</p> <p>9 MR. MCLAURIN: Okay. I'm looking at an aerial and</p> <p>10 the sidewalk is showing up on the aerial as well too.</p> <p>11 MR. BURDIN: Okay. I wasn't, I wasn't sure. I</p> <p>12 just wanted to make sure. Thank you. That's all I have.</p> <p>13 HEARING EXAMINER BAUMGARDNER: Thank you, sir.</p> <p>14 Thank you, Mr. McLaurin. Ms. Girard, any redirect?</p> <p>15 MS. GIRARD: No, nothing.</p> <p>16 HEARING EXAMINER BAUMGARDNER: Okay. With that</p> <p>17 the witness for his testimony. Your next witness, if you</p> <p>18 have anymore, Ms. Girard.</p> <p>19 MS. GIRARD: Well I --</p> <p>20 MS. BENNETT: May I ask a question?</p> <p>21 HEARING EXAMINER BAUMGARDNER: I'm sorry</p> <p>22 Councilwoman Bennett. Yes, what was your question, ma'am?</p> <p>23 MS. BENNETT: I just want to ask Mr. McLaurin</p> <p>24 whether EYA considered options to place the care center on</p> <p>25 the western side and/or more inside of the housing</p>
<p style="text-align: right;">241</p> <p>1 to that access road.</p> <p>2 MR. MCLAURIN: Are you talking a sidewalk on the</p> <p>3 south side of Strathmore? Or on the north side of</p> <p>4 Strathmore?</p> <p>5 MR. BURDIN: North side.</p> <p>6 MR. MCLAURIN: Well --</p> <p>7 MR. BURDIN: To the right of the white car where</p> <p>8 there is a single person walking toward us.</p> <p>9 MR. MCLAURIN: That's paving associated with the</p> <p>10 bus shelter. You will see it does not continue east or west</p> <p>11 along that road. I believe that's just paving associated</p> <p>12 with the bus shelter. But I would let Mr. Sloan clarify that</p> <p>13 later on if there is an opportunity. But --</p> <p>14 MR. BURDIN: So you think that sidewalk that's</p> <p>15 running sidewalk south to north with the little person that's</p> <p>16 on -- is currently there?</p> <p>17 MR. MCLAURIN: Oh, south to north? I apologize.</p> <p>18 I thought you meant parallel to --</p> <p>19 MR. BURDIN: No.</p> <p>20 MR. MCLAURIN: I do not -- I do not know that. I</p> <p>21 can go and look at a plan. No, I don't --</p> <p>22 (Crosstalk)</p> <p>23 MR. BURDIN: -- that lives on Strathmore access</p> <p>24 can testify to that later.</p> <p>25 MR. MCLAURIN: Yeah. Well, it does seem that that</p>	<p style="text-align: right;">243</p> <p>1 development.</p> <p>2 MR. MCLAURIN: Yes, we did actually. We felt</p> <p>3 like, from the standpoint of impact on the western stream</p> <p>4 valley buffer and from the standpoint of impact on grade,</p> <p>5 that it was better suited on the location that we are showing</p> <p>6 it now. But we did create studies and analyze multiple</p> <p>7 locations for the care center on the site.</p> <p>8 MS. BENNETT: Thank you. I appreciate it.</p> <p>9 MR. MCLAURIN: You're welcome.</p> <p>10 HEARING EXAMINER BAUMGARDNER: Thank you, ma'am.</p> <p>11 Ms. Girard, I will turn it back over to you.</p> <p>12 MS. GIRARD: Yeah, I was just noting, as I did at</p> <p>13 the beginning, that we intend to recall Mr. Sloan. But I</p> <p>14 think -- I anticipate we will have to after the opposition</p> <p>15 has their witnesses anyway. So if it's okay with everyone, I</p> <p>16 would circulate those exhibits and we just do it all at once</p> <p>17 when we get our rebuttal.</p> <p>18 HEARING EXAMINER BAUMGARDNER: That's fine with</p> <p>19 me. So we will switch gears and move over to -- we will</p> <p>20 start with Mr. Shaffer. Mr. Shaffer, now is your opportunity</p> <p>21 to either give an opening statement if you would like. Or</p> <p>22 you can call your first witness, sir.</p> <p>23 MR. SHAFFER: I will give a very brief opening</p> <p>24 statement and then get straight to the witness. I don't</p> <p>25 think that the position of the Association or even most of</p>

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<p style="text-align: right;">244</p> <p>1 the citizens opposing this, is that we are opposed to this  2 development per se. I think our concerns are primarily with  3 traffic and environment. And we would like to see those  4 addressed differently and better, but the proposal that's  5 been presented here.</p> <p>6 But we do believe that if the application were  7 approved, it should be with some of the conditions that we  8 have asked for in our testimony and in our papers so far.</p> <p>9 So with all that having said, let's -- I will  10 start with the president of our Association, Kip Edwards.</p> <p>11 HEARING EXAMINER BAUMGARDNER: And Mr. Shaffer,  12 when you close, whenever that occurs, please make sure to  13 list what those conditions might be so that I have a very  14 clear understanding of what additional conditions are being  15 requested by the community.</p> <p>16 MR. SHAFFER: Okay. I will let Mr. Edwards  17 address that as well (inaudible). Thank you.</p> <p>18 HEARING EXAMINER BAUMGARDNER: Mr. Edwards, there  19 you are. Sir, please give me your name, your address, and a  20 good email address for you, please.</p> <p>21 MR. EDWARDS: Good morning. My name is Kip  22 Edwards; K-I-P, E-D-W-A-R-D-S. And my address is 5312 Bangor  23 Drive, Kensington, Maryland, 20895.</p> <p>24 HEARING EXAMINER BAUMGARDNER: And please raise  25 your right hand.</p>	<p style="text-align: right;">246</p> <p>1 work for me to handle on my own, or the members of the  2 committee to handle on their own. And so I formed an ad hoc  3 committee to study the proposed applications and the plans  4 (inaudible) Holy Cross and the Applicant were putting forward  5 to the community.</p> <p>6 So we put out a call to our listserv to request  7 for volunteers and the amount of outreach that I got was,  8 quite frankly, very surprising. Dozens and dozens of people  9 reached out saying that they were interested in this and were  10 very concerned about it. And we ultimately had about 16  11 members of our community participate regularly in the group  12 that studied the development. So the purpose of the ad hoc  13 committee was to study various demands of subject matter that  14 we received were important to the neighborhood. And the  15 committee was to report findings to me so that I could  16 communicate a position of the neighborhood to the relevant  17 decision-makers.</p> <p>18 MR. SHAFFER: And can you describe the findings  19 that the members of your committee communicated to you?</p> <p>20 MR. EDWARDS: Sure. So something that became  21 clear during this process is the fact that, as was  22 communicated to me, the planning board staff based their  23 conclusions and recommendations on traffic reports which the  24 community felt were inherently flawed. So the first traffic  25 study, as we talked about yesterday, was based on data</p>
<p style="text-align: right;">245</p> <p>1 Do you swear or affirm under penalties of perjury  2 that the testimony you are about to give is the truth, the  3 while truth and nothing but the truth?</p> <p>4 MR. EDWARDS: I do.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, the  6 witness is yours.</p> <p>7 MR. SHAFFER: Thank you. Mr. Edwards, for who are  8 you testifying today?</p> <p>9 MR. EDWARDS: So I am the president of the Garrett  10 Park Estates, the White Flint Park Citizens' Association.  11 And that's who I am testifying for today.</p> <p>12 MR. SHAFFER: Can you describe what that  13 association is?</p> <p>14 MR. EDWARDS: Sure. The Association represents  15 about 650 homes in the Garrett Park Estates, White Flint Park  16 neighborhoods, which of the neighborhoods to the north of the  17 proposed development. We have our -- the area of the  18 neighborhood is a long Strathmore Avenue and sort of in the  19 corner between Strathmore and Rockville Pike going north.</p> <p>20 MR. SHAFFER: Okay. Has the Association and its  21 members undertaken efforts to analyze the anticipated impact  22 of this development on their community?</p> <p>23 MR. EDWARDS: Yes. So when we were first notified  24 about the proposed development last, I believe it was last  25 winter, I decided that it was probably going to be too much</p>	<p style="text-align: right;">247</p> <p>1 acquired during the pandemic, sort of at a peak time of the  2 pandemic when there wasn't much activity.</p> <p>3 And that was the prevailing document for many  4 months of the planning board process. The original LATR was  5 then updated in August as was described yesterday, to include  6 historic data, so pre-pandemic data, at -- I believe it was  7 DOT's request, just intuiting that this data didn't paint an  8 accurate picture.</p> <p>9 The historical counts available were really aged.  10 They were from five, eight years ago. And so everyone in the  11 county knows how much traffic has increased in this area  12 since those counts were taken. They were before Pike and  13 Rose and other developments in the area. So we know that the  14 data which formed the basis for both the original LATR and  15 the updated LATR were flawed because we did our own lay  16 count, which we can describe in a minute.</p> <p>17 Some of the other findings of the committee were  18 also important. One of the things that became apparent was  19 that the green buffer space along Strathmore Avenue between  20 Strathmore and Strathmore service road would be a potential  21 area for the Applicant to want to encroach upon to develop  22 whatever sort of mitigation strategies that they sought. And  23 that's something that was very important to the group. The  24 notion that the Applicant will relieve the burdens of traffic  25 that their development creates by encroaching upon that green</p>

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<p style="text-align: right;">248</p> <p>1 buffer space was very concerning for people.</p> <p>2 Now, other concerns that were brought up probably</p> <p>3 just aren't -- well, one of them probably isn't necessarily</p> <p>4 applicable, unfortunately, to this process which was the</p> <p>5 burden on schools. Garrett Park Elementary is already at</p> <p>6 capacity and may be operating overcapacity soon, I believe.</p> <p>7 And adding what could be -- I think based on the calculations</p> <p>8 we did was potentially 17 students to Garrett Park Elementary</p> <p>9 school was very concerning because the school is already</p> <p>10 stressed.</p> <p>11 And by the time this development comes online it</p> <p>12 was going to be probably thousands potentially of other</p> <p>13 residents coming online in the area, certainly hundreds. And</p> <p>14 so that burden on schools was a top priority and a top</p> <p>15 concern for people. Also there were -- people take point</p> <p>16 with the development plans as they are now in that they claim</p> <p>17 that it is sort of a recreation focused development and there</p> <p>18 is lots of open space when we just don't see that in the</p> <p>19 plans. There is I think 0.44 acres devoted to a walking path</p> <p>20 around the development.</p> <p>21 But I believe that still the plan is not for that</p> <p>22 to be lit. Correct me if I'm wrong. And so we're just going</p> <p>23 to have a dark path next to a stream that is on the rear of</p> <p>24 the development, which to us is concerning because it creates</p> <p>25 a potential safety hazard because we would have a dark area</p>	<p style="text-align: right;">250</p> <p>1 the morning.</p> <p>2 And our count was much higher than the numbers</p> <p>3 used in the August 2021 LATR supplemental report, which is</p> <p>4 what planning board staff ultimately relied on when they met</p> <p>5 their conclusions. The traffic counts we took were from</p> <p>6 December 13, 2021 at Stillwater Avenue and Strathmore Avenue.</p> <p>7 Our count, according to the Camlytics software, for what our</p> <p>8 neighborhood knows is the true a.m. peak period, which is</p> <p>9 when the school is in session, with at least 1,970 trips,</p> <p>10 which was 63 percent higher than what the Applicants'</p> <p>11 original -- the traffic site-based -- the Applicants' traffic</p> <p>12 consultant based in their original analysis and mitigation</p> <p>13 strategies on the intersection. I believe it was -- that</p> <p>14 intersection was I believe 1,205 trips.</p> <p>15 Now the Applicant later submitted updated traffic</p> <p>16 counts for this intersection which were higher than the</p> <p>17 original 1,205 trips, but certainly lower than our 1,970</p> <p>18 trips for the intersection. So the neighborhood's opinion is</p> <p>19 the reality is we just don't have an accurate picture of the</p> <p>20 traffic here. And frankly, people just find it hard to</p> <p>21 believe that this development will have no impact on traffic</p> <p>22 along Strathmore Avenue even with the mitigation strategies.</p> <p>23 We have thought long and hard about how the</p> <p>24 traffic consultant came to this conclusion. And without</p> <p>25 knowing anything about the software that they used to perform</p>
<p style="text-align: right;">249</p> <p>1 that is intended for people to walk that would be unlit and</p> <p>2 out of sight to people in the development. So that was a</p> <p>3 concern.</p> <p>4 There were also concerns raised about how ADA</p> <p>5 accessible that area was. And of course everyone went back</p> <p>6 to traffic, traffic, traffic. So speaking of which, we did</p> <p>7 our own lay count one morning in December because we believed</p> <p>8 that the data that was underlying the LATR and the</p> <p>9 supplemental LATR was flawed.</p> <p>10 MR. SHAFFER: So can you describe how you did that</p> <p>11 study and what means you used?</p> <p>12 MR. EDWARDS: Sure. So we are, I should note for</p> <p>13 the record, not traffic consultants. We are not experts in</p> <p>14 traffic studies. We have learned a lot over the last six</p> <p>15 months or so, but basically we bought a camera that was an</p> <p>16 IP-based camera that we set up on the porch of a committee</p> <p>17 members home at the corner of Stillwater and Strathmore right</p> <p>18 where the main entrance to the Holy Cross Academy is.</p> <p>19 We initially wanted to count vehicles ourselves,</p> <p>20 but realized there were too voluminous for us to manually</p> <p>21 count accurately. And so I purchased a traffic counting</p> <p>22 software service called Camlytics. That's;</p> <p>23 C-A-M-L-Y-T-I-C-S. And the software uses machine learning to</p> <p>24 count cars which enter and exit the frame. We did this for</p> <p>25 one hour period from 7:20 in the morning I believe to 8:20 in</p>	<p style="text-align: right;">251</p> <p>1 these analytics number which is probably very sophisticated,</p> <p>2 the only thing that we could think of is problems in the</p> <p>3 baseline data that they were using, the traffic counts. But</p> <p>4 not only with the existing traffic along Strathmore, but also</p> <p>5 their assumptions about how many trips this development will</p> <p>6 create during peak periods.</p> <p>7 And remember, the proposed development adds 125</p> <p>8 residences. So possibly 250 additional vehicles. In</p> <p>9 addition to that, I believe there is 150 resident assisted</p> <p>10 living facility, with daily visitors, and maybe 50 employees.</p> <p>11 I forget what exactly they said yesterday. You know, 24 hour</p> <p>12 staffing. Probably frequent emergency medical response,</p> <p>13 frequent deliveries. This is going to be a heavily used a</p> <p>14 commercial facility there.</p> <p>15 So with 250 vehicles in the residential areas</p> <p>16 potentially, assuming one or two per house, plus the staff</p> <p>17 that is going to work at the senior living facility, this</p> <p>18 could mean more than 300 additional vehicles making multiple</p> <p>19 trips a day. That's a significant added burden to an already</p> <p>20 overburdened road. We already have, frankly, school buses</p> <p>21 making illegal maneuvers to access the service road to avoid</p> <p>22 traffic during morning rush.</p> <p>23 And we know many of our residents are trapped in</p> <p>24 the neighborhood during morning and the evening rush with no</p> <p>25 ability to access Strathmore. We are often locked into our</p>



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<p style="text-align: right;">252</p> <p>1 neighborhood until a good Samaritan just decides to lead us  2 into line. And this isn't just our perception, by the way.  3 The Applicant's own data shows that Strathmore Avenue is  4 already overburdened. The traffic study submitted by the  5 Applicant's consultant appeared to acknowledge significant --  6 I believe they said six times the Maryland SHA standard for  7 morning peak hour congestion.  8 But somehow adding hundreds of vehicles and a  9 senior living facility won't result in any additional  10 congestion. It just doesn't seem accurate to us. So that's  11 the perception for the neighborhood. And that was sort of  12 the -- those were some of the key findings that we made.  13 MR. SHAFFER: Can you describe any additional  14 concerns that the neighborhood has in addition to the traffic  15 issue and safety issue you just presented?  16 MR. EDWARDS: Sure. So there were environmental  17 concerns that were raised by the community. So this is a  18 dense development and it removes one of the areas few last  19 large green spaces next to wetlands and a stream. And if you  20 look at the 2018 Grosvenor minor master plan you will see  21 that this area was blocked out and green. It was designed to  22 be -- it was intended to be a -- I believe they called it a  23 school and civic use, surrounded by what would be residences  24 and new commercial, I believe CRA zoned property above  25 Grosvenor.</p>	<p style="text-align: right;">254</p> <p>1 submissions with relation to its proximity Metro and MARC  2 train. One of the prevailing things we kept hearing from  3 planning board staff and the Applicant was that this fits  4 within the county's push to have residences close to Metro.  5 And we think that's great. There should be residences close  6 to Metro.  7 Unfortunately, by not creating a path to access  8 Tuckerman or even preferably a road to access Tuckerman Lane  9 in the rear of the neighborhood, the actual walk times to the  10 Metro put it in reality much further away from the Metro than  11 it looks on the map. As the crow flies, this development is  12 incredibly close to the Metro and in line with all the plans  13 about smart growth. But without access on foot to Tuckerman  14 Lane, the walk times to the Metro will be much, much longer  15 than reported in the Applicant's submissions.  16 The Applicant has suggested that it only takes 10  17 minutes to walk from the development to Metro and to the  18 train station in Garrett Park. We've walked -- members of  19 the community have walked both starting from the Holy Cross  20 main entrance and walked both routes at a relatively fast  21 pace, they said. These were healthy adults. And the actual  22 walking time by an average walker is much closer to 15  23 minutes in the best of weather.  24 So for those residents in the back of the  25 development, the walk would be even longer to both stations,</p>
<p style="text-align: right;">253</p> <p>1 According to the EPA, I believe there is no  2 baseline water quality data for that wetland area, and nor is  3 there a baseline water quality data for the stream running  4 through the property which will undoubtedly catch sedimentary  5 runoff during construction and will absorb nearly all of the  6 runoff caused by the massive amount of new non-permeable  7 service area created by the proposed development. So we are  8 very concerned about potential environmental impacts of the  9 zoning change.  10 I think the neighborhood's downstream too of the  11 stream, which we are not, should be concerned as well for  12 storm water drainage. I know they -- I don't think they have  13 participated meaningfully in this process, but I think that's  14 something that should be considered. We have not seen, I  15 don't believe, any documents reflecting with precision the  16 amount of impermeable surface area that will replace the  17 green space.  18 And you know, this isn't just a convenient talking  19 point for us either. Garrett Park is a very environmentally  20 focused neighborhood. I believe one of the -- the town has a  21 head arborist. It's intended to be kind of like a living  22 Arboretum where people are signed by trees and green space.  23 So this is very important for people.  24 Another concern that people brought up related to  25 just what we perceived as inaccuracies in the Applicant's</p>	<p style="text-align: right;">255</p> <p>1 possibly more like 20 minutes. It's also a very steep  2 incline. So in the summer it's -- when it's humid and 100  3 degrees in the area, this is not going to be a very  4 attractive walk to the Metro.  5 The employees of the assisted living facility I  6 should note, would have an even longer walk to the Metro.  7 And MARC train is not really a feasible commuting option  8 every day for many of those employees just because of the  9 times that they -- that their shifts start. And so, yeah,  10 the -- if the Applicant had just planned to add a footpath or  11 a community entrance to Tuckerman Lane or an entrance to the  12 school on Tuckerman Lane, a lot of our community's concerns  13 would have been assuaged. But they didn't.  14 And so this has been the biggest -- probably the  15 biggest issue that has been raised over and over again. It's  16 why is there no access to Tuckerman Lane. And the answers we  17 keep getting all seem to sort of dance around the issue that  18 it would just be, quite frankly, expensive. It would be  19 expensive to put a walking path due to the terrain. And it  20 would be even more expensive to put a road. That dichotomy  21 of what we know the answer really is and the talking points  22 that we hear just has, quite frankly, rubbed some of the  23 members of the community the wrong way.  24 So this development in many people's opinion in  25 many members of the community, it is just too dense for</p>

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<p style="text-align: right;">256</p> <p>1 Strathmore to support, especially when you consider the  2 cumulative effect of all the other developments which are  3 coming online in the near future.  4 MR. SHAFFER: So as I indicated in my opening,  5 we're not necessarily opposed to this concept. What  6 conditions do you believe would make this project more  7 acceptable to the community you represent?  8 MR. EDWARDS: Yeah. So in our written testimony  9 we submitted, I believe six requested stipulations. So --  10 and I can go through them  11 MR. SHAFFER: Yeah, please do.  12 MR. EDWARDS: Stipulation one was, if the hearing  13 examiner recommends approval of the LMA, we believe it should  14 only be done on condition that all documentation for any  15 future development materials be provided in an accessible  16 format for the visually impaired. This has been an issue for  17 us and is really hindered our ability to represent ourselves  18 we believe, in an effective manner.  19 Our second stipulation -- well, yeah. Our second  20 stipulation is if the hearing examiner recommends approval of  21 the LMA, it should only be done on condition that measures to  22 address cut through traffic in our neighborhood on Flanders  23 Avenue and Stillwater be built in the future development  24 plans. Such measures might include forbidding nonresidents  25 from entering our neighborhood during peak traffic times,</p>	<p style="text-align: right;">258</p> <p>1 already zip down. But we also want to make sure that the  2 proposed new turn lanes or any of the traffic abatement  3 measures that are part of these plans are not created by  4 carving into this green buffer zone.  5 We certainly don't want to see the loss of trees  6 or shrubs along this buffer, both of which -- if we were to  7 take those trees and shrubs out, it would bring a lot of  8 traffic noise and just car pollution significantly closer to  9 the homes there that face Strathmore Avenue. The fifth  10 requested circulation was that if they hearing examiner  11 recommends approval of the LMA, it should only be done on  12 condition that the new traffic lights -- or that new traffic  13 lights are installed as Stillwater and Strathmore as well as  14 Flanders and Rockville Pike to facilitate safe entry and exit  15 to and from our neighborhood.  16 There are approximately 650 homes in Garrett Park  17 Estates, White Flint Park, and a very modestly estimated  18 1,000 vehicles in the Garrett Park Estates, White Flint Park  19 neighborhood that are associated with these homes. These  20 vehicles leave the neighborhood either by Flanders Avenue or  21 Stillwater Avenue on either side (inaudible) and Rockville  22 Pike. So we are requesting the traffic lights located at  23 these intersections to facilitate safe vehicular and  24 pedestrian entry and exit from Garrett Park Estates, White  25 Flint Park.</p>
<p style="text-align: right;">257</p> <p>1 potentially the addition of speed bumps or speed cameras on  2 Stillwater to deter dangerous driving.  3 And a third request is stipulation was we think  4 this development needs an actual park. The proposed plans  5 reserve very little available green space and expects  6 families to leave their new neighborhood really to access our  7 neighborhood's already heavily used playgrounds nearby. So  8 we believe that approval should be contingent on the  9 Applicant incorporating an ADA compliant accessible park,  10 large and appropriate enough for this intergenerational  11 community.  12 I mean, right now we have a walking path which is  13 in -- faces the back of a lot of the townhome and terminates  14 into a lawn area with some seating. And I know it will  15 probably look nice, but it's not a park. And it's not large  16 enough for this development. The fourth requested  17 stipulation was if the hearing examiner recommends approval  18 of the LMA it should be done on a condition that the future  19 development preserves the existing green buffer along  20 Strathmore Avenue.  21 So the homes along Strathmore Avenue access road  22 on the north side of the street are separated from the  23 traffic and road noise by this green buffer zone with trees  24 and shrubs. Residents do not want to see spillover traffic  25 on this narrow access road. It's a one-way road which people</p>	<p style="text-align: right;">259</p> <p>1 Placing any traffic light at the new main entrance  2 to the proposed development without some sort of signalized  3 control at these intersections could result in the residence  4 of Garret Park, White Flint Park being unable to exit our  5 neighborhood because the red light is going to stop there at  6 the main entrance and backup traffic, which it already does.  7 It backs up bumper-to-bumper, standstill traffic. Nobody is  8 moving during peak traffic times.  9 I lied. There were seven requested stipulations.  10 This is requested stipulation six, approval of the LMA should  11 include a prohibition of commencement of construction if  12 projected overcrowding at any school which the development  13 would feed into exceeds 120 percent this is intended to sort  14 of reinstate in a very -- in a generous way, the freeze on  15 development that the county council had lifted previously  16 which prohibited development in the clusters where schools  17 were in excess of 120 percent capacity. How we can rightly  18 build a development that's going to add students into a  19 cluster of schools where there would be overcrowding in  20 excess of 120 percent, it's just not right.  21 Our last requested stipulation says that approval  22 of the element to be conditioned on the inclusion of a rear  23 entrance and exit either to the community or to the Holy  24 Cross Academy, and a footpath on to Tuckerman Lane. We think  25 this simple addition with significantly ease traffic burdens</p>

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<p style="text-align: right;">260</p> <p>1 on Strathmore Avenue and improve the neighborhood's access to</p> <p>2 transit and the future commercial space at Grosvenor Metro,</p> <p>3 Grosvenor/Strathmore Metro station. It's a win-win for</p> <p>4 policy and our future neighbor's quality of life.</p> <p>5 I should note that we sincerely appreciated all of</p> <p>6 the interactions that we've had with planning board staff</p> <p>7 OZAH and the staff. Everybody has been extremely</p> <p>8 professional and has kind of, I think, understood the fact</p> <p>9 that this is not our full-time jobs, we are not professional</p> <p>10 developers, we do not understand the county code and all of</p> <p>11 the factors that go into these decisions. So we appreciate</p> <p>12 getting the opportunity to communicate our observations and</p> <p>13 the ability to raise some of these facts so that the hearing</p> <p>14 examiner can make a decision with all the facts. That's all</p> <p>15 we want.</p> <p>16 MR. SHAFFER: Is there anything else that I have</p> <p>17 missed, Mr. Edwards?</p> <p>18 MR. EDWARDS: I don't think so. I think some of</p> <p>19 the other witnesses can testify to their observations about</p> <p>20 living in the neighborhood and some of the impacts that they</p> <p>21 perceive the development will have.</p> <p>22 MR. SHAFFER: Okay. I have no further questions</p> <p>23 at this time.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Thank you, very</p> <p>25 much. Ms. Girard, any cross-examination of this witness?</p>	<p style="text-align: right;">262</p> <p>1 that in the right-of-way that separates the project from the</p> <p>2 access lane.</p> <p>3 MR. EDWARDS: Okay. And then can you repeat the</p> <p>4 question then?</p> <p>5 MS. GIRARD: My question is, if the State Highway</p> <p>6 Administration or someone came through and said if we do</p> <p>7 these improvements, this project aside, it will enhance -- it</p> <p>8 will greatly improve upon the congestion that you are</p> <p>9 experiencing today, would the impacts to the median then be</p> <p>10 acceptable to the community?</p> <p>11 MR. EDWARDS: I think that the -- based on the</p> <p>12 fury of response that I got when it became clear yesterday</p> <p>13 that some of the plans were going to impact even a couple</p> <p>14 feet of that buffer, I think the community would be quite</p> <p>15 upset if any of that buffer were to be touched.</p> <p>16 MS. GIRARD: So they would prefer to keep traffic</p> <p>17 levels as they are rather than add a lane (inaudible)?</p> <p>18 MR. EDWARDS: I shouldn't testify to what the --</p> <p>19 that question wasn't asked during the committee's</p> <p>20 deliberations. And so I shouldn't speak on behalf of the</p> <p>21 community as to that.</p> <p>22 MS. GIRARD: Okay. You mentioned the trails not</p> <p>23 being lit and being dark at night. Are you aware of how</p> <p>24 Montgomery County Parks handles their trails, natural trails?</p> <p>25 MR. EDWARDS: No.</p>
<p style="text-align: right;">261</p> <p>1 MR. EDWARDS: Erin, you are on mute.</p> <p>2 MS. GIRARD: Sorry. Yes, you would think I would</p> <p>3 know that by now. I apologize in advance if I jump all over</p> <p>4 the place. I take frantic notes. And so we may be jumping</p> <p>5 around your testimony. But you had mentioned in the median</p> <p>6 in Strathmore Avenue. Are you aware, is that within the</p> <p>7 right-of-way? Or is that publicly owned? Privately owned?</p> <p>8 MR. EDWARDS: I don't -- I don't know the answer</p> <p>9 to that question, but I believe some of the other -- the</p> <p>10 later witnesses may know the answer to that.</p> <p>11 MS. GIRARD: Okay. And are you aware of the</p> <p>12 testimony yesterday by the traffic consultant about how the</p> <p>13 installation of turn lanes and the correction of the</p> <p>14 alignment as Stillwater and the traffic signal would improve</p> <p>15 upon existing conditions even without the development?</p> <p>16 MR. EDWARDS: I'm aware that that's what the</p> <p>17 traffic consultant stated</p> <p>18 MS. GIRARD: So is it your position that even if</p> <p>19 these -- development aside, even if these improvements could</p> <p>20 fix the existing traffic issues, you would not want them done</p> <p>21 because they could impact that median?</p> <p>22 MR. EDWARDS: Are you talking about the median in</p> <p>23 between the lanes for people who cross the street on</p> <p>24 Strathmore Avenue?</p> <p>25 MS. GIRARD: The median that you were referring to</p>	<p style="text-align: right;">263</p> <p>1 MS. GIRARD: Are they lit?</p> <p>2 MR. EDWARDS: No, I don't know about Montgomery</p> <p>3 County Parks. I assume some are or some aren't. But across</p> <p>4 the stream on the Symphony Park trails, those are lit at</p> <p>5 night. And so we think that keeping the trails lit on the</p> <p>6 other side of the stream would be in line with the community.</p> <p>7 MS. GIRARD: Are you aware of whether those trails</p> <p>8 on the Symphony Park side and that lighting is within the</p> <p>9 stream valley buffer?</p> <p>10 MR. EDWARDS: I don't know.</p> <p>11 MS. GIRARD: And you mentioned that the trail will</p> <p>12 not be visible from the dwelling units. What are you basing</p> <p>13 that on?</p> <p>14 MR. EDWARDS: I was basing that off planning board</p> <p>15 staff commentary that I saw in some exchanges that appeared</p> <p>16 to go between planning board staff and the Applicant where</p> <p>17 they raised this concern about the trail being in the rear of</p> <p>18 the townhome sticks and there would be sort of -- I believe</p> <p>19 there was supposed to be some sort of wall or some sort of</p> <p>20 fencing that would in their eyes make the trail less visible</p> <p>21 to the people living there. And it would also just be in the</p> <p>22 rear and unlit. So that's what all that commentary comes</p> <p>23 from.</p> <p>24 MS. GIRARD: But you are -- are you saying that</p> <p>25 you are or are not aware of any responses that the Applicant</p>

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<p style="text-align: right;">264</p> <p>1 may have submitted to comments to staff made in that regard?</p> <p>2 MR. EDWARDS: I believe I saw some responses, but</p> <p>3 I don't believe I was super impressed. But if there are</p> <p>4 plans to make it more visible or make it more lit that I'm</p> <p>5 not aware of, I would be -- I would love to hear them.</p> <p>6 MS. GIRARD: On the traffic counts, did you</p> <p>7 actually count the cars in the video? Or did you just rely</p> <p>8 on the software?</p> <p>9 MR. EDWARDS: We did some -- I did some sampling</p> <p>10 to test if it seemed accurate. And in the sampling that I</p> <p>11 did it did seem quite accurate. I did not count all of the</p> <p>12 vehicles for the entire hour.</p> <p>13 MS. GIRARD: When you say sampling, can you be</p> <p>14 more specific?</p> <p>15 MR. EDWARDS: Yeah. So for like the first five</p> <p>16 minutes or so, just looking back on it, I would say the first</p> <p>17 five minutes or so of the video I sort of count of the cars</p> <p>18 and I looked at the timestamps on the software saying new</p> <p>19 objects were seen. And it seemed to line up quite</p> <p>20 accurately.</p> <p>21 MS. GIRARD: Did you hear Ms. Wagner's testimony</p> <p>22 yesterday that they also reviewed the first 10 minutes in</p> <p>23 slow-mo and found it to be greatly exaggerated?</p> <p>24 MR. EDWARDS: Yeah. I did hear that. I was</p> <p>25 curious to hear how exaggerated it was. I didn't hear any</p>	<p style="text-align: right;">266</p> <p>1 anticipated emergency responses based on their experience</p> <p>2 with other properties?</p> <p>3 MR. EDWARDS: I can't recall it or recite it, but</p> <p>4 I'm sure she has accurate data.</p> <p>5 MS. GIRARD: And --</p> <p>6 MR. EDWARDS: I have no reason to doubt whether</p> <p>7 her statement was inaccurate.</p> <p>8 MS. GIRARD: Correct. And as far as -- I guess my</p> <p>9 question is, in questioning the traffic, in addition to</p> <p>10 relying on your own calculations, you've made assumptions</p> <p>11 regarding the frequency of emergency responses, that all</p> <p>12 staff would drive, that every house would generate two trips</p> <p>13 during the peak hour. Is this just your own opinion? Or is</p> <p>14 this -- did you consult with a traffic engineer?</p> <p>15 MR. EDWARDS: No, we did not consult -- we</p> <p>16 considered consulting with a traffic engineer. Our budget</p> <p>17 right now, I think we have about \$3,400 in the bank. And we</p> <p>18 have -- and it's actually -- I need to submit an expense</p> <p>19 report for the camera. So it's really probably more like</p> <p>20 3,100. So no, we just were able to fund a traffic</p> <p>21 consultant. So all those assumptions aren't -- we weren't</p> <p>22 creating a new calculation to challenge the traffic studies</p> <p>23 just because we aren't in a position to do so.</p> <p>24 One of our concerns about the emergency response</p> <p>25 was just with the design of the entrance. We just worried</p>
<p style="text-align: right;">265</p> <p>1 actual hard numbers.</p> <p>2 MS. GIRARD: I would have to go back as to</p> <p>3 whether -- I thought she did give a percentage, but we can</p> <p>4 certainly have her address that. You also mentioned in your</p> <p>5 testimony --</p> <p>6 MR. EDWARDS: Can I say, by the way, I don't --</p> <p>7 I'm not a traffic person. I'm not a traffic expert. And I</p> <p>8 never used the software before. It was a tool that we</p> <p>9 thought would be beneficial and add some color.</p> <p>10 MS. GIRARD: Right. I guess (inaudible).</p> <p>11 MR. EDWARDS: It may be -- it may be over or</p> <p>12 under, but I'm not sort of swearing to the accuracy of</p> <p>13 Camlytics software. So if someone did count it, which maybe</p> <p>14 should be done to create a super accurate count, that should</p> <p>15 be done.</p> <p>16 HEARING EXAMINER BAUMGARDNER: It was acknowledged</p> <p>17 that it was a lay software program that was used to enhance</p> <p>18 the community's understanding of the traffic impact. So it's</p> <p>19 certainly -- it's part of the evidentiary process, but it's</p> <p>20 included as a lay estimate based upon the community's desire</p> <p>21 to understand better the traffic count.</p> <p>22 MS. GIRARD: Understood. You also mentioned that</p> <p>23 on top of what you perceived to be the existing traffic,</p> <p>24 there would probably be frequent emergency responses. Were</p> <p>25 you aware of the testimony of Ms. Bacon yesterday about the</p>	<p style="text-align: right;">267</p> <p>1 that the -- like big fire trucks, if they were to respond,</p> <p>2 weren't going to want to pull into the roundabout area and</p> <p>3 may just park on the main entrance and just further backup</p> <p>4 traffic on Strathmore Avenue. That's just one of our</p> <p>5 concerns. Now maybe planning board staff and your designers</p> <p>6 and Brandywine, they may think that that's not an issue, and</p> <p>7 it very well may not be. But that was something that people</p> <p>8 talked about.</p> <p>9 MS. GIRARD: So was the bulk of your -- you</p> <p>10 mentioned numerous times in your testimony, perception. So</p> <p>11 what efforts were made to try to marry people's perceptions</p> <p>12 with what may be the facts?</p> <p>13 MR. EDWARDS: Well frankly, people's perceptions I</p> <p>14 think are quite accurate here. We are -- we may not be</p> <p>15 traffic express, but we are experts in Strathmore Avenue. We</p> <p>16 go on that -- I've lived here for five years and I travel on</p> <p>17 it probably two or three times a day. And I've been on it</p> <p>18 probably 1,500 times. And so there was no real effort to</p> <p>19 marry people's perception to some sort of scientific</p> <p>20 assessment until someone had the bright idea of setting up a</p> <p>21 camera and counting the cars. That was the closest I think</p> <p>22 we can do actually marrying our perception to some sort of</p> <p>23 actual sort of hard number or hard science. Is that your</p> <p>24 question?</p> <p>25 MS. GIRARD: Generally, yes. You also mentioned</p>

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<p style="text-align: right;">268</p> <p>1 the downstream. When you were talking about the</p> <p>2 environmental you mentioned that downstream should be worried</p> <p>3 about drainage. If I -- is that an accurate --</p> <p>4 MR. EDWARDS: Yeah.</p> <p>5 MS. GIRARD: What is that based on? It's on just</p> <p>6 the fact that it is a -- this is going to create a lot of new</p> <p>7 impermeable surface area, which is almost all going to drain</p> <p>8 into that stream and float downhill. And one of the</p> <p>9 community members whose name I will leave off the record said</p> <p>10 that he spoke with some people who live down there and they</p> <p>11 say that the stream gets quite rapid during storms. And so</p> <p>12 adding to that impermeable surface area and adding to the</p> <p>13 load to that stream I think would be something that they</p> <p>14 should be concerned about if they live there. I would</p> <p>15 certainly be.</p> <p>16 MS. GIRARD: Based on your layperson opinion?</p> <p>17 MR. EDWARDS: Absolutely.</p> <p>18 MS. GIRARD: Was there any attempt to evaluate the</p> <p>19 storm water concept plan or talk to staff about storm water</p> <p>20 measures and how that may or may not affect drainage?</p> <p>21 MR. EDWARDS: The closest person we had to an</p> <p>22 expert on storm water management was actually David Shaffer.</p> <p>23 And he's been an environmental lawyer for years and is very</p> <p>24 familiar with storm water management plans and things that</p> <p>25 affect storm water drainage and stream valleys. And frankly,</p>	<p style="text-align: right;">270</p> <p>1 commercial zone. And that's why we're here.</p> <p>2 So I don't know if it specifically mandated board</p> <p>3 to be that way, but it certainly -- just looking at it, look</p> <p>4 at the maps, it does appear to have been drawn as sort of</p> <p>5 ingrained, outlined around the property, and denoted for</p> <p>6 civic and school use.</p> <p>7 MS. GIRARD: So your assumption is that the -- is</p> <p>8 that the reflection of it as a current green space</p> <p>9 demonstrated an intent that it should remain so in the</p> <p>10 future?</p> <p>11 MR. EDWARDS: Yes. Yeah. Otherwise, why would</p> <p>12 they have denoted it that way on the map?</p> <p>13 MS. GIRARD: You mentioned again -- and I don't</p> <p>14 want to belabor this point pursuant to the hearing examiner's</p> <p>15 comments this morning. But you had mentioned again the</p> <p>16 connection to Tuckerman Lane. And you also emphasized your</p> <p>17 testimony your concern about the environment. Did you hear</p> <p>18 the testimony of the civil engineer and the land planner</p> <p>19 yesterday regarding what such a connection would do to the</p> <p>20 environment?</p> <p>21 MR. EDWARDS: You know what? I may have missed</p> <p>22 that one.</p> <p>23 MS. GIRARD: It's (inaudible)</p> <p>24 MR. EDWARDS: I can't comment on their -- on the</p> <p>25 previous testimony, no.</p>
<p style="text-align: right;">269</p> <p>1 a lot of -- we were really relying on him to build to analyze</p> <p>2 things. And for the longest time it was very difficult for</p> <p>3 them to come up with an accurate analysis because some of the</p> <p>4 documents weren't accessible to him.</p> <p>5 And I believe -- I don't believe Mr. Shaffer is</p> <p>6 going to be making himself a witness and questioning himself,</p> <p>7 but the plan seemed to be more of -- so theoretical that it</p> <p>8 wasn't really -- didn't create an opportunity to make any</p> <p>9 sort of accurate analysis even if he could.</p> <p>10 MS. GIRARD: But again --</p> <p>11 MR. EDWARDS: Which as I understand it, it's -- at</p> <p>12 this stage is I guess all that is required.</p> <p>13 MS. GIRARD: But there is no documentation, expert</p> <p>14 opinions, anything to support your perception in that regard?</p> <p>15 MR. EDWARDS: No, ma'am.</p> <p>16 MS. GIRARD: And you mentioned the removal of the</p> <p>17 green space in the Grosvenor Master Plan. That master plan</p> <p>18 call for it to be maintained open space or recommended as for</p> <p>19 Outlook acquisition of parklands?</p> <p>20 MR. EDWARDS: I believe it was just -- it's not --</p> <p>21 in the mass for the plan, it's not necessarily called park</p> <p>22 area. I believe it's school and civic space. And it is the</p> <p>23 noted that way on the map and the drawings for that 2018</p> <p>24 master plan. I believe that's all reason why we're here</p> <p>25 because the master plan didn't change it to be some sort of</p>	<p style="text-align: right;">271</p> <p>1 MS. GIRARD: What is your understanding of what</p> <p>2 such a connection may or may not do to the environment?</p> <p>3 MR. EDWARDS: Well, you know, the only</p> <p>4 understanding that we have is based on the access road and</p> <p>5 the bridge that was for, I believe it's the Cloisters, the</p> <p>6 community that is directly behind Holy Cross Academy. And</p> <p>7 they were able to successfully build a road across the stream</p> <p>8 there.</p> <p>9 MS. GIRARD: Do you know when that was built?</p> <p>10 MR. EDWARDS: I don't know.</p> <p>11 MS. GIRARD: Do you know how many cars it can</p> <p>12 accommodate?</p> <p>13 MR. EDWARDS: I don't know. It's about -- I would</p> <p>14 say the driving lanes are about as wide I believe as</p> <p>15 Strathmore Avenue. I believe it's one lane in, one lane out.</p> <p>16 MS. GIRARD: And with regard to your comments</p> <p>17 about open space, are you aware that the various zones</p> <p>18 contained in the zoning ordinance dictate a minimum amount of</p> <p>19 open space?</p> <p>20 MR. EDWARDS: Yes, generally.</p> <p>21 MS. GIRARD: And so is it your opinion that that</p> <p>22 needs to be exceeded in this case?</p> <p>23 MR. EDWARDS: Yes, in order to be sort of in</p> <p>24 keeping with the neighborhood that we are -- that it's going</p> <p>25 to be developed in, yes. It would be different certainly</p>

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<p style="text-align: right;">272</p> <p>1 than we think the other -- than the neighborhoods in the  2 area. Certainly Symphony Park, we think, has a lot more sort  3 of usable space. It's just our perception.  4 MS. GIRARD: Okay. With regard to the traffic  5 signals, you had mentioned wanting -- was in two or three? I  6 was not --  7 MR. EDWARDS: Yeah. So it's -- on Strathmore  8 it's -- and this is pending the expertise of the planners and  9 the State Highway Administration and of course the Applicant.  10 A traffic signal at Stillwater and Strathmore, which is where  11 the current entrance to the school is, is one of our  12 requests. And then also on Flanders Avenue and Rockville  13 Pike because we believe that there's going to be more cut  14 through traffic for our neighborhood as a result of this  15 development.  16 So we want a -- that's the road that people would  17 access to cut through our neighborhood to avoid traffic on  18 Strathmore and to avoid the left turn lane backups from  19 Rockville Pike south onto Strathmore. So a signal there to  20 facilitate safe entry and exit from our neighborhood on  21 Flanders is one thing we are requesting.  22 MS. GIRARD: And are you aware of how the State  23 Highway Administration considers whether traffic signals are  24 warranted on their roads?  25 MR. EDWARDS: I'm not, unfortunately.</p>	<p style="text-align: right;">274</p> <p>1 capacity?  2 MR. EDWARDS: New? How new? I'm aware that they  3 lifted the 120 percent --  4 MS. GIRARD: Last year.  5 MR. EDWARDS: Yes. So the reason for us -- well,  6 I can just answer the question or tell you the reason why we  7 want that.  8 MS. GIRARD: I guess my question is -- right. My  9 question is, so you are asking for a stricter standard to be  10 applied to this specific case than is applied everywhere else  11 in the county under the new growth policy?  12 MR. EDWARDS: Well, yes. Just because the county  13 lifted the prohibition doesn't mean that it relieves the  14 county of its -- of its responsibility to ensure that schools  15 aren't so overcapacity that it affects the quality of  16 education that the children get. So just because they lifted  17 the moratorium doesn't mean we think that we can abandon our  18 responsibilities during planning processes.  19 MS. GIRARD: Are you aware of the adequate public  20 facilities ordinance and how it's administered with regard to  21 school capacity?  22 MR. EDWARDS: I'm not, no.  23 MS. GIRARD: Okay. And did you testified that  24 county council regarding your concerns when they were going  25 through the growth policy?</p>
<p style="text-align: right;">273</p> <p>1 MS. GIRARD: And is it your testimony that the new  2 light where proposed will not create sufficient breaks to  3 facilitate people getting in and out of the neighborhood as  4 was testified to by Ms. Wagner?  5 MR. EDWARDS: Already there is backups that block  6 Stillwater Avenue. If you're going on Stillwater south to  7 Strathmore and the needed to turn left, already backups occur  8 so that people are locked in the neighborhood. And that goes  9 all the way down to, I believe the next signal is Kenilworth.  10 And so traffic will back up all the way from Kenilworth to  11 there. So by putting a traffic light for the down closer to  12 Stillwater at the main entrance of the community, we believe  13 that that will only cause traffic to back up even more and  14 lock in the neighbors on Stillwater and people living in  15 Jolly and Symphony Park too.  16 MS. GIRARD: In this again is your perception of  17 what would be appropriate? You haven't done any studies to  18 determine whether that would be appropriate --  19 MR. EDWARDS: Yes, ma'am.  20 MS. GIRARD: And create the solution?  21 MR. EDWARDS: That's correct. That's my  22 perception. We have not done any sort of official studies.  23 MS. GIRARD: And you reference this, but it seems  24 like you are aware of the county council recently passing the  25 new growth and infrastructure policy that addresses school</p>	<p style="text-align: right;">275</p> <p>1 MR. EDWARDS: Not during the growth policy. I've  2 testified and members of our community have testified and  3 participated in various proceedings of the county council.  4 MS. GIRARD: But you didn't specifically raise  5 this when they were adopting the new growth policy?  6 MR. EDWARDS: That's correct, no.  7 MS. GIRARD: I believe that's all I have. Thank  8 you.  9 HEARING EXAMINER BAUMGARDNER: Thank you, very  10 much. Mr. Burdin, any questions for Mr. Edwards?  11 MR. BURDIN: Yeah, just one about your counting of  12 the cars. The -- I believe the traffic consultant yesterday  13 criticized your count because it was not in accordance with  14 the guidelines. I believe that's because you did it on a  15 Monday. Did you do your study on a Monday?  16 MR. EDWARDS: We did do the study on a Monday.  17 Afterwards we found out that I guess the standard say you  18 don't -- if it's going to be like an official count, which  19 this was never intended to be. I guess you do it on a  20 Tuesday, Wednesday, or Thursday I believe. Yes, it was done  21 on a Monday.  22 MR. BURDIN: Okay.  23 MR. EDWARDS: And I believe that was the nature of  24 that critique, which is fair.  25 MR. BURDIN: Okay. That's all. I just wanted to</p>

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<p style="text-align: right;">276</p> <p>1 clarify that. Thank you.</p> <p>2 HEARING EXAMINER BAUMGARDNER: Thank you, sir.</p> <p>3 Mr. Shaffer, any redirect on Mr. Edwards?</p> <p>4 MR. SHAFFER: No. No, Your Honor.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Okay, thank you.</p> <p>6 Any other questions for Mr. Edwards from anyone who has</p> <p>7 joined us as a party? Looking down our list, I don't see any</p> <p>8 raised virtual hands or anyone trying to wave me down. We</p> <p>9 thank Mr. Edwards for his testimony here today. We will turn</p> <p>10 it back over to Mr. Shaffer for your next witness, sir.</p> <p>11 MR. SHAFFER: Okay. If these present -- is Arthur</p> <p>12 Ribeiro on?</p> <p>13 MR. RIBEIRO: Good morning. Yes, Mr. Shaffer,</p> <p>14 this is Arthur Ribeiro. I'm here.</p> <p>15 MR. SHAFFER: Okay, great. Could you please</p> <p>16 identify yourself for the record?</p> <p>17 MR. RIBEIRO: Yes. My name is Arthur Ribeiro da</p> <p>18 Silva. I am a resident of 5101 Strathmore Avenue in</p> <p>19 Kensington, Maryland 20895. That's a house that sits on the</p> <p>20 corner of Strathmore and Stillwater Avenues.</p> <p>21 HEARING EXAMINER BAUMGARDNER: And sir, what is a</p> <p>22 good email address for you?</p> <p>23 MR. RIBEIRO: So my email address is</p> <p>24 ARDaSilva@Verizon.net. And as Mr. Edwards described earlier</p> <p>25 with the ad hoc committee that was created, I was sort of put</p>	<p style="text-align: right;">278</p> <p>1 traffic at that intersection?</p> <p>2 MR. RIBEIRO: Yeah. So I see a lot of problems,</p> <p>3 one of which is traffic. I witness every day, every weekday,</p> <p>4 backups in front of my house here in the mornings and in the</p> <p>5 afternoons. The morning ones are from around 7:30 in the</p> <p>6 morning until roughly 8:20 or so when all the girls are</p> <p>7 dropped off at school and the traffic is no longer there to</p> <p>8 direct the traffic.</p> <p>9 There is two different traffic cops. They</p> <p>10 alternate who takes over there. And one of them is very</p> <p>11 loud. And when he is very upset with one of the drivers I</p> <p>12 can hear him screaming from my living room. And you can</p> <p>13 actually see him on exhibit -- what is -- this is Exhibit 67</p> <p>14 in my testimony. A picture of him is on PDF page 4. You can</p> <p>15 see the intersection right there. This picture was taken on</p> <p>16 the day that we did the video. The video was done from the</p> <p>17 porch on my house. And you can see a picture of the traffic</p> <p>18 in the morning there.</p> <p>19 MR. SHAFFER: Okay.</p> <p>20 MR. RIBEIRO: So I have concerns. So I can</p> <p>21 testify to the traffic that I see every day here. This</p> <p>22 traffic that -- thank you for showing the picture. So there</p> <p>23 is a backup that goes -- and so this is a picture that was</p> <p>24 taken facing south on to the -- to where the development will</p> <p>25 be. So to the right would be going towards Rockville Pike</p>
<p style="text-align: right;">277</p> <p>1 in charge of managing and coordinating the work of that</p> <p>2 committee. But I'm also, like I said, a resident that</p> <p>3 affronts the property.</p> <p>4 HEARING EXAMINER BAUMGARDNER: And can you raise</p> <p>5 your right hand, sir?</p> <p>6 MR. RIBEIRO: Yes.</p> <p>7 Do you swear or affirm under penalties of perjury</p> <p>8 that the testimony you are about to give is the truth, the</p> <p>9 while truth and nothing but the truth?</p> <p>10 MR. RIBEIRO: Yes.</p> <p>11 HEARING EXAMINER BAUMGARDNER: Thank you, very</p> <p>12 much. Mr. Shaffer, the witness is yours.</p> <p>13 MR. SHAFFER: Good morning. How long have you</p> <p>14 lived at that location, sir?</p> <p>15 MR. RIBEIRO: Also I've lived here for 14 years,</p> <p>16 just over 14 years in this property. And I purchased the</p> <p>17 property, I tore down the house and built it from foundation,</p> <p>18 a new property on this very site. And that's why earlier</p> <p>19 when the architect was speaking, he mentioned that there is a</p> <p>20 house with two stories. There are two houses, and my house</p> <p>21 is one of those. And the window behind me is a view from the</p> <p>22 second floor of Strathmore Avenue.</p> <p>23 MR. SHAFFER: Okay. And based upon your personal</p> <p>24 observations at that location for 14 years, what problems do</p> <p>25 you see with the proposal submitted by the Applicant on the</p>	<p style="text-align: right;">279</p> <p>1 and that traffic there goes all the way to Rockville Pike.</p> <p>2 There is actually another picture on page 14 of</p> <p>3 this PDF that actually shows the traffic going all the way up</p> <p>4 the hill towards Rockville Pike, as you can see there. So</p> <p>5 this traffic is -- happens in the morning and it happens in</p> <p>6 the afternoon when -- and so both pickup and drop off of the</p> <p>7 school. But it also continues on. So Strathmore is one of</p> <p>8 the key connectors between Connecticut Avenue and Rockville</p> <p>9 Pike East/West corridors here and here in Montgomery County.</p> <p>10 And it's only a two lane road.</p> <p>11 And so going into the -- the peak hours that</p> <p>12 usually go into 5:00 to 6:00 p.m. as well. So for example</p> <p>13 after school when I'm taking one of my kids to practice and I</p> <p>14 need to go east on Strathmore Avenue, I will be, just like</p> <p>15 the car that's sitting there waiting to take a left turn, I</p> <p>16 will be that car waiting to take a left turn. And the backup</p> <p>17 from that light that's on Kenilworth Avenue comes all the way</p> <p>18 to hear and further towards Rockville Pike. And so I, like</p> <p>19 Mr. Edward said, have to wait for a good Samaritan to allow</p> <p>20 me to take that left turn to go east.</p> <p>21 MR. SHAFFER: Okay.</p> <p>22 MR. RIBEIRO: Because at that point there is no</p> <p>23 cop to direct traffic.</p> <p>24 MR. SHAFFER: Right. What has been your</p> <p>25 observation, if any, about people using Stillwater as a cut</p>

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<p style="text-align: right;">280</p> <p>1 through to Rockville Pike when it's backed up to the light at 2 Strathmore and Rockville? 3 MR. RIBEIRO: I have definitely seen that happen. 4 What they do is they will either take a right turn here on to 5 Stillwater Avenue to go to Flanders and connects North to 6 Rockville Pike. Or sometimes if the backup is even further 7 back towards Flanders or Kenilworth, they will take the 8 service road, which is in the front of this picture here, and 9 they will drive west on the service road and then take a 10 right on Stillwater and go towards Flanders. 11 And I've seen MCPS bus -- school buses do this. 12 And I worry about emergency vehicles wanting to do this 13 because I don't know that this road is -- this access road is 14 really wide enough to accommodate a fire truck. And in 15 addition, this road is sort of considered part of like the 16 bike path that the -- and so if my understanding is correct 17 of the master plan, that there is like a bike path that goes 18 here. And my daughter, for example, she goes to school 19 riding her bike up this service road. So I worry about this 20 cut through traffic that would come with cars going really 21 quickly down this road. 22 MR. SHAFFER: Okay. What other concerns do you 23 have about the proposal? What other concerns do you have, if 24 any, about the proposal to put the light at the new center 25 driveway entrance to the Academy?</p>	<p style="text-align: right;">282</p> <p>1 the south side of Strathmore. And there is another bus stop 2 directly across the street from it on the north side of 3 Strathmore which my sons use. And that is so that the kids 4 do not have to cross the street. And so yesterday when the 5 traffic engineer was saying that the residents, the 6 elementary school residents of this future development would 7 have to cross Symphony Park twice to get to Garrett Park was 8 very concerning. 9 So you asked about one of my other concerns. So 10 the pedestrian and bike safety is another key concern, like I 11 raised earlier. And I was also worried because -- so we had 12 meetings with the developer. We had meetings with -- that I 13 organized for our committee to meet with parks and planning. 14 And when we had that meeting with Ms. Graham and her 15 colleagues, I was really concerned to see that they were not 16 aware that this crosswalk that you are showing a picture 17 right there does not have a signalized crossing. 18 They were under the impression that there was. 19 And so my concern was, have you ever even been here to see 20 the property. So later at the planning board meeting they 21 claimed that they had and they said this. But it just made 22 me made me really concerned that some of these planning 23 department staff maybe had not even been here to see what 24 they were approving and what they were analyzing. 25 So I mentioned the traffic. I mentioned the</p>
<p style="text-align: right;">281</p> <p>1 MR. RIBEIRO: Yeah. So I was happy to hear 2 yesterday that I think it was a traffic consultant said that 3 the school is considering still keeping the traffic cops to 4 help direct traffic. I don't know how useful the cop will be 5 to direct traffic when there is a stoplight. I think that 6 that cop might be more useful at this intersection here at 7 Stillwater to not only those who are trying to leave our 8 neighborhood to get onto Strathmore, but also to help 9 pedestrians cross the traffic -- or cross the street. 10 So as you can see, that crosswalk that's right 11 there, you can see that there is a yellow pedestrian 12 crosswalk sign that has been run over several times. This is 13 a very unsafe crosswalk. And I think that the -- adding a 14 traffic light here would not only help ease the traffic and 15 ease the difficulty that our neighbors have in exiting our 16 community, but would also help improve the safety for the 17 pedestrians who cross the street. 18 This is a very dangerous street to cross. There 19 is a light there. You can sort of make it -- see it in the 20 picture, but it's not very bright. I've crossed in the dark. 21 I've almost gotten run over there crossing that crosswalk in 22 the dark. And during the day, it's very dangerous, so much 23 so that MCPS bus routes are done in such a way that the kids 24 are not supposed across Strathmore Avenue. 25 So there is an MCPS bus stop at Symphony Park on</p>	<p style="text-align: right;">283</p> <p>1 pedestrian bike safety that I can testify to. The other 2 thing that I can testify to is the effect on the schools. 3 Mr. Edwards mentioned it a bit. So I have three kids, one in 4 each of school basically. I have a fifth grader. My 5 daughter is that Garrett Park Elementary School. I have a 6 son who is an eighth grader at Tilden middle school. And I 7 have my older son who is a 10th grader at Walter Johnson High 8 School. My oldest son, the 10th grader, when he was a 9 kindergartner, so about 10 years ago, that is when Garrett 10 Park School was renovated and they moved from the old school 11 to this brand-new elementary school. 12 And within five years, so by the time that he was 13 a fifth grader and my son was a third grader, they arty had 14 portables on the blacktop in the back of the school because 15 they were so overcrowded within five years of renovating the 16 school. So I know that they just renovated and opened a 17 brand-new Tilden Middle school. I know there are plans for 18 another high school in this cluster, Walter Johnson. And 19 there will be another school at the site where Woodward high 20 school I think used to be. 21 But there hasn't really been something to address 22 the overcrowding in the elementary schools. And so I would 23 really think that the county council, to approve dense 24 developments like this and others in our area, this is not 25 the only one in our area, that they really should add another</p>



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<p style="text-align: right;">284</p> <p>1 elementary school to this cluster. That should be a 2 requirement.</p> <p>3 And then the final thing I can testify to and it 4 was mentioned a little bit, is in terms of the parks and the 5 playground area in our neighborhood. So there is a 6 playground at Jua Drive, which is in our neighborhood. And 7 there is also the White Flint Park playground. The Jua Drive 8 one is it -- there is a pretty small playground and is more 9 geared towards toddlers.</p> <p>10 The White Flint Park is much bigger and geared 11 more towards older kids. It also has basketball and tennis 12 courts. So is really geared towards older community. Maybe 13 the -- this development here will use our neighborhood 14 playgrounds. It would have to cross Strathmore Avenue to do 15 that at this very dangerous Stillwater intersection to do so. 16 But as we talked about, this is a green space that's really 17 quite used. It is private property of the school, but on 18 snow days like we saw last month, dozens of kids in this area 19 go and sled right there on this -- on these hills.</p> <p>20 And they go there because before the Symphony Park 21 townhouses were built, there were even better hills in that 22 undeveloped area. So this development will take away a green 23 space that is really quite used by the neighborhood. And 24 yeah, there may be a small green space with a bench or 25 something like that, but that, I don't think will really</p>	<p style="text-align: right;">286</p> <p>1 traffic engineer. I'm not an expert.</p> <p>2 MS. GIRARD: Okay. And you had mentioned staff -- 3 your concerns about staff having visited the site. But you 4 did acknowledge that they addressed that at the planning 5 board.</p> <p>6 MR. RIBEIRO: Yeah, they did. I wasn't -- yes, 7 they addressed it.</p> <p>8 MS. GIRARD: Okay. And that they had been to the 9 site?</p> <p>10 MR. RIBEIRO: That's what they said.</p> <p>11 MS. GIRARD: With regard to the perception of the 12 use as a green space, is the community, and are you, aware 13 that this is private property?</p> <p>14 MR. RIBEIRO: Yes.</p> <p>15 MS. GIRARD: And so you are there by the grace of 16 the school?</p> <p>17 MR. RIBEIRO: Yes.</p> <p>18 MS. GIRARD: That's all I have.</p> <p>19 HEARING EXAMINER BAUMGARDNER: Mr. Burdin, any 20 questions for this witness?</p> <p>21 MR. BURDIN: No, I don't. Thank you.</p> <p>22 HEARING EXAMINER BAUMGARDNER: Thank you for your 23 testimony Mr. Ribeiro. As a child I was a connoisseur of 24 sledding hills. So I can certainly appreciate your 25 testimony. There is not a hill in Carroll or Hartford County</p>
<p style="text-align: right;">285</p> <p>1 address the needs of that community, and intergenerational 2 community, for the kids.</p> <p>3 So just to summarize then, I think I've testified 4 to the concerns with the traffic, with the pedestrian and 5 bike safety, the schools, and to the parks and playground 6 areas in this neighborhood.</p> <p>7 MR. SHAFFER: Thank you, very much for your 8 testimony. I have no further questions at this time.</p> <p>9 HEARING EXAMINER BAUMGARDNER: Ms. Girard, any 10 cross-examination of this witness?</p> <p>11 MS. GIRARD: Only a couple of questions. Mr. -- 12 is it [Rib 'ero] or [Ribeiro]?</p> <p>13 MR. RIBEIRO: [Ribeo].</p> <p>14 MS. GIRARD: Ribeiro, sorry. I didn't mean to 15 pronounced it incorrectly before.</p> <p>16 MR. RIBEIRO: No, that's --</p> <p>17 MS. GIRARD: With regard to your testimony 18 regarding the traffic light at Stillwater and traffic in 19 general, a similar question that I had for Mr. Burdin. Is 20 this based on your perception or is based on some kind of 21 quantifiable information, documentation, consultation with 22 traffic engineers?</p> <p>23 MR. RIBEIRO: So it's just based on what I see 24 every day. It's based on these pictures I've taken, the 25 video that we took. That's all it's based on. I'm not a</p>	<p style="text-align: right;">287</p> <p>1 Maryland that I was not on at some point. So I do appreciate 2 that.</p> <p>3 Mr. Shaffer, any redirect of this witness?</p> <p>4 MR. SHAFFER: No, sir.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Okay. We thank him 6 for his testimony. Back to Mr. Shaffer for any other 7 witnesses.</p> <p>8 MR. SHAFFER: Do I have Vanessa Lido here?</p> <p>9 MS. LIDE: Lide, yes you do.</p> <p>10 MR. SHAFFER: Okay. I would like to go -- am I 11 pronouncing your last name correctly? [Lido]?</p> <p>12 MS. LIDE: It's Lide; L-I-D-E.</p> <p>13 MR. SHAFFER: Okay, thank you. Could you please 14 identify yourself for the record?</p> <p>15 MS. LIDE: Yes. My name is Vanessa, last name 16 Lide, and I live at 5013 Strathmore Avenue on the access 17 road.</p> <p>18 MR. SHAFFER: Could you give us kind of an 19 approximation of how far down that road you live towards the 20 east?</p> <p>21 MS. LIDE: I'm probably about --</p> <p>22 HEARING EXAMINER BAUMGARDNER: Ms. Lide?</p> <p>23 MS. LIDE: Yes.</p> <p>24 HEARING EXAMINER BAUMGARDNER: I'm sorry. Can you 25 raise your right hand, please?</p>

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<p style="text-align: right;">288</p> <p>1 MR. SHAFFER: Oh, I apologize.</p> <p>2 HEARING EXAMINER BAUMGARDNER: That's all right.</p> <p>3 Do you swear or affirm under penalties of perjury</p> <p>4 that the testimony you are about to give is the truth, the</p> <p>5 while truth and nothing but the truth?</p> <p>6 MS. LIDE: Yes, I do.</p> <p>7 HEARING EXAMINER BAUMGARDNER: Thank you, very</p> <p>8 much.</p> <p>9 MS. LIDE: Let me add my email address for the</p> <p>10 record too.</p> <p>11 HEARING EXAMINER BAUMGARDNER: Sure.</p> <p>12 MS. LIDE: It's V.Lide2345@gmail.com. And I'm</p> <p>13 going to state up front that I'm not a traffic engineer or a</p> <p>14 traffic expert.</p> <p>15 HEARING EXAMINER BAUMGARDNER: Thank you. Thank</p> <p>16 you, ma'am. Mr. Shaffer, you may continue.</p> <p>17 MR. SHAFFER: Okay. Can you describe how far down</p> <p>18 you live on that access road towards the east?</p> <p>19 MS. LIDE: Yes. I'm probably about two thirds of</p> <p>20 the way down moving westwards. So I'm roughly, I think, in</p> <p>21 front of where the main -- the new access road A, the main</p> <p>22 access road is.</p> <p>23 MR. SHAFFER: Okay. That's what I was trying to</p> <p>24 get on the record.</p> <p>25 MS. LIDE: Yes. So I have a front row seat, yeah.</p>	<p style="text-align: right;">290</p> <p>1 kids home. The only way to do this is to cut through, cut</p> <p>2 off the main roadway and go up this access road, which is</p> <p>3 very narrow.</p> <p>4 But this access road is also used for people who</p> <p>5 are walking. People walk on the sidewalk. People walk in</p> <p>6 the road, on this access road. And people walk on this</p> <p>7 buffer zone. So we are a very popular walking path, whether</p> <p>8 it's people walking to the Metro, whether it's people walking</p> <p>9 for exercise, whether it's the scores of kids who walk up</p> <p>10 this road and our sidewalk to go to school every day or ride</p> <p>11 their bikes. We are a well-traveled, very narrow access</p> <p>12 road.</p> <p>13 MR. SHAFFER: And then when they go up this access</p> <p>14 road, where are they trying to get to? Stillwater?</p> <p>15 MS. LIDE: When they go up? I can't see that far.</p> <p>16 I assume -- there is no bus stop on this access road. There</p> <p>17 is no reason for those buses to be there. And I know most of</p> <p>18 the cars who live -- you know, people who live here. And I</p> <p>19 know -- I can tell when people are zipping up. It's -- you</p> <p>20 know, they are not -- they are just trying to cut through.</p> <p>21 Either they are trying to get the Stillwater and then cut</p> <p>22 over, turn left there and cut over to exit out onto Rockville</p> <p>23 Pike, so that's more cut through traffic that way, or they</p> <p>24 are trying to get back into the queue, think they are saving</p> <p>25 themselves some time. I don't know.</p>
<p style="text-align: right;">289</p> <p>1 MR. SHAFFER: Okay. Have you observed any safety</p> <p>2 concerns arising out of the backups on Stillwater and -- I'm</p> <p>3 sorry -- backups on Strathmore?</p> <p>4 MS. LIDE: Yes. The specific concerns, the things</p> <p>5 that I have noticed from my front doorway, is that when</p> <p>6 traffic backs up going either east or west, people try to</p> <p>7 jump the queue by zipping up our road or zipping down our</p> <p>8 road, whichever way the backup is. I do have some pictures</p> <p>9 of the traffic on Strathmore. I would like to get a chance</p> <p>10 to share those as well.</p> <p>11 But let me describe what happens. First off, we</p> <p>12 are a narrow -- I live on a narrow access road. There are</p> <p>13 only two houses with driveways. Everybody parks by -- has no</p> <p>14 choice. They park on the roadway in front of their homes.</p> <p>15 So that basically reduces this access road to a one lane,</p> <p>16 take your -- please go slowly, take your time to weave in and</p> <p>17 out. And there aren't that many places to pull in if</p> <p>18 everybody is parked on the front anyway.</p> <p>19 So two weeks ago on a Friday afternoon, I'm not</p> <p>20 sure why the traffic was particularly bad that day. One</p> <p>21 after another there were four MCPS school buses that</p> <p>22 obviously had -- no, MCPS's school bus drivers have been</p> <p>23 having a very hard time. I know they're trying to get</p> <p>24 everybody home safely, but these bus drivers clearly thought</p> <p>25 I am -- this is so backed up, these -- we have to get these</p>	<p style="text-align: right;">291</p> <p>1 MR. SHAFFER: Is this a frequent occurrence in</p> <p>2 your observation?</p> <p>3 MS. LIDE: When the traffic is backed up, yeah, it</p> <p>4 does happen.</p> <p>5 MR. SHAFFER: Okay. And have you reviewed the</p> <p>6 mitigation measures proposed by the Applicant?</p> <p>7 MS. LIDE: Yes, I have. To the extent that I as a</p> <p>8 layperson can -- I don't understand the traffic studies. I</p> <p>9 don't understand the calculations. One of the things that</p> <p>10 strikes me is in these traffic studies it says, well, there</p> <p>11 will be minimal impact, because actually right now there is</p> <p>12 zero cars coming in and out of that access, the current</p> <p>13 access road at St. Angela Hall. That's because there is</p> <p>14 nobody there. So -- so anyway.</p> <p>15 So the answer the answer to your question is, yes,</p> <p>16 I have reviewed them to the extent that I can try and</p> <p>17 understand them, but I don't understand them in full. But I</p> <p>18 also have to say that I feel like a lot of the questions</p> <p>19 we've asked, we've asked a rational, intelligent, and simple</p> <p>20 questions. We've had meetings with the developer. We've had</p> <p>21 meetings with Montgomery County Planning.</p> <p>22 And the answers we get are, oh, that will be</p> <p>23 addressed further down the line or oh, no, no, don't worry</p> <p>24 about stormwater because Montgomery County has the toughest</p> <p>25 regulations in the country. Or on traffic it's like, oh,</p>

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<p style="text-align: right;">292</p> <p>1 we've got it planned. We're going to put a traffic light in  2 at the central driveway and that's going to solve all the  3 backup. Now I would argue that, again, based on my  4 perception and based on what the traffic looks like, not all  5 of this traffic has to do with the school. There is a lot of  6 East-West traffic that goes on Strathmore Avenue. Maybe this  7 would be a good time if I could share some of the pictures.  8 MR. SHAFFER: Sure, please. Go ahead.  9 MS. LIDE: I'm going to attempt to do this. I  10 might need some help on this. Let's see. Okay. Is that  11 showing up? Is that showing up as sharing my screen or  12 the --  13 HEARING EXAMINER BAUMGARDNER: It is not showing  14 up for me, ma'am.  15 MR. SHAFFER: No.  16 MS. LIDE: Well, I'm in the share tray, desktop.  17 HEARING EXAMINER BAUMGARDNER: There should be one  18 option that says window. If you click on it will bring a  19 drop-down box with a number of options for the different  20 windows that can be displayed.  21 MS. LIDE: This is really frustrating because I  22 asked to send this and -- let me try tab. Let's try that.  23 How about that?  24 HEARING EXAMINER BAUMGARDNER: Yes.  25 MR. SHAFFER: Yes.</p>	<p style="text-align: right;">294</p> <p>1 Strathmore right at that pedestrian crossway at Stillwater.  2 And --  3 HEARING EXAMINER BAUMGARDNER: So by Monday  4 morning you mean yesterday?  5 MS. LIDE: Yes.  6 HEARING EXAMINER BAUMGARDNER: January 31st, okay.  7 MS. LIDE: Yes. So you are looking -- the  8 nearside lane you're looking at -- and this is the non-  9 signalized pedestrian crossing. The nearside lane you are  10 looking westward up the hill towards Rockville Pike. All of  11 these cars are not lined up to go into Holy Cross. Some of  12 them certainly are, but not all of them. And you also get a  13 sense of the traffic, that there is also congestion in the  14 westbound lane.  15 Okay. This is viewed from the other side of the  16 street. Again, this is where the bus stop is at this --  17 right at this non-signalized pedestrian crossing. So you are  18 seeing traffic backed up as its headed towards Rockville  19 Pike. That's the right side, the nearside lane. The far  20 side lane is coming eastbound. And that's Symphony Park  21 behind it. So if you look here at the top, this is sort of  22 roughly where the entrance to Symphony Park is. And then  23 Jolly Way is directly across from that.  24 And so you can see just from this, this picture,  25 that anybody who is trying to go to work or take their kids</p>
<p style="text-align: right;">293</p> <p>1 HEARING EXAMINER BAUMGARDNER: It is appearing  2 now. Is an exhibit that says, Exhibit, traffic on Strathmore  3 Avenue.  4 MS. LIDE: Okay.  5 MR. SHAFFER: Could you identify this picture for  6 the record, please?  7 MS. LIDE: Okay. So what --  8 MS. GIRARD: Are these new exhibits? I just want  9 to be clear.  10 HEARING EXAMINER BAUMGARDNER: Sure.  11 MS. LIDE: Yes, these are new exhibits.  12 HEARING EXAMINER BAUMGARDNER: One second.  13 Everyone, one second. So these are going to be proposed as  14 new exhibits. Ms. Girard can certainly object to them or ask  15 questions about them. We are going to identify the exhibit,  16 where it is, what it was taken, et cetera, first. And then  17 we can deal with any objection over the exhibit in a moment.  18 So Ms. Lide, can you tell us when this picture was taken and  19 who took the picture and the direction that we are looking?  20 MS. LIDE: Sure. So I took these pictures. I've  21 been sort of trying to go out and take pictures when the  22 traffic is backed up, but is not related to snow or ice or  23 anything like that. It's been a little bit challenging in  24 the past few weeks. So this is a picture taken Monday  25 morning. This is about 8:00. So we are on the south side of</p>	<p style="text-align: right;">295</p> <p>1 to school or get out of those neighborhoods really does have  2 a very, very difficult time in the morning. But the same  3 backups happen on the -- at the Stillwater intersection. But  4 for now we have the Montgomery County safety officer who does  5 help traffic get in and out.  6 So this is further up. This is sort of in front  7 of my house. So this is right down here at the bottom is the  8 very last little piece of concrete of the existing bus stop  9 that's there. So you can see, yes, traffic is backed up sort  10 of come in both directions. And so that's what it is on a  11 Monday morning. While we are on -- maybe it's helpful to  12 kind of -- I would also like to talk about the buffer zone.  13 And it's helpful I think to talk about this when this picture  14 is up.  15 To point out -- so here there is a little bit of  16 shoulder. And then here is the buffer zone that separates  17 the access road and the homes along the access road from the  18 traffic noise, from pollution, and gives us a little bit of a  19 buffer from this roadway. But -- and I will talk about this  20 further and hopefully have a chance to explain this, but we  21 have been -- we were reassured continuously by EYA, by the  22 Montgomery County planners, and also even Ms. Girard's  23 statement, opening statement yesterday, that there would be  24 no impact on the buffer zone.  25 But essentially you're talking about taking away</p>

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<p style="text-align: right;">296</p> <p>1 the space and another 2 or 3 feet here that really does  2 impact the buffer zone. But also takes away the shoulder.  3 And that is a pretty critical point on this two lane road.  4 Even if you make it a three lane road you still have to let  5 emergency vehicles from the Kensington Fire Department get  6 through here. And that I think will make it less safe for  7 them to do so and less safe for the cars on the road.  8 So you can say like, oh yeah, well that's just on  9 a Monday morning. But this was a picture I took on Friday  10 afternoon. It was about 3:00 p.m. There is no traffic cop  11 there. I think that means there is no -- this was not a time  12 when Holy Cross Academy was exiting. There's just one car  13 sitting there.  14 But this is pretty steady in the afternoons. And  15 remember, there are multiple schools trying to let students  16 out safely and get everybody home safely every day here. So  17 it's not just Holy Cross. Further up the road on the other  18 side of Holy Cross school is -- other side of Holy Cross  19 Church, which is right next to the proposed site, is Holy  20 Cross school. That's a K-8 school. They are letting -- they  21 have to get people out onto Strathmore Avenue. And then you  22 go a few hundred yards up to Kenilworth Avenue, you are in  23 the town of Garrett Park where there is a traffic light.  24 They have to get school buses and students in and out safely  25 as well. So those are my pictures. Let me see if I can</p>	<p style="text-align: right;">298</p> <p>1 side from the site itself, any additional right-of-way  2 needed.  3 And that is what we've been told and that -- by --  4 when we talked with Tamika Graham in the planning department,  5 I have emails from Tamika Graham. I have emails from Brenda  6 Pardo explaining this. When we talked -- when we met with  7 EYA on October 4th when there was the earlier hearing on  8 December 16, Tamika Graham raised this. And I think that's  9 what Ms. Girard also said yesterday in her opening remarks,  10 that these are the concerns, these are the concerns and we've  11 addressed them. It's like it's not a problem.  12 So that raises a huge red flag for me now saying  13 that, can we -- what other half-truths are there here. It  14 feels like my concerns have been papered over four months and  15 months and months. Then we heard yesterday from Mr. Sloan  16 that's, no, no, we're widening the curb and making  17 improvements to the bus stop that cut into that buffer zone.  18 So that is, for me, a very real concern.  19 MR. SHAFFER: Okay. Thank you, very much for your  20 testimony. I have no further questions.  21 MS. LIDE: Thank you.  22 HEARING EXAMINER BAUMGARDNER: Ms. Girard, any  23 cross-examination of Ms. Lide?  24 MS. GIRARD: I just have one -- it may just be a  25 point of clarification. You had mentioned that not all</p>
<p style="text-align: right;">297</p> <p>1 figure out how to un-share them, or if anybody has questions.  2 HEARING EXAMINER BAUMGARDNER: Ms. Girard or Mr.  3 Burdin, any objection to these photos coming into evidence?  4 MS. GIRARD: None from me.  5 MR. BURDIN: None from me.  6 HEARING EXAMINER BAUMGARDNER: Okay. I don't have  7 exhibit numbers yet, but they will be admitted with the other  8 exhibits from the case and they will be added onto the end.  9 So I think we ended at Exhibit 80 as of right now. So these  10 will most likely be 81, 82 -- 81, 82, 83, 84, but we will add  11 that after conclusion of the hearing.  12 MS. LIDE: And so if I can go back and does not  13 talk about this buffer zone, this is where -- you know,  14 why -- you think like, why is this a concern, why does this  15 matter. It's just 2 or 3 feet, but there are just a number  16 of issues related to this. We count on that buffer zone as a  17 way of sort of insulating ourselves a little bit from the  18 road noise.  19 But most of all, I'm sort of really perturbed.  20 And I would like to be on the record and say I feel like  21 we've been -- I -- we've been raising this concern. I, in  22 particular, have been raising this concern on behalf of many  23 of my neighbors along this access road for many months now.  24 And at every point we've been reassured, no, it's not a  25 problem. It's -- the right-of-way has to come from the south</p>	<p style="text-align: right;">299</p> <p>1 traffic was related to the school. And I think you emphasize  2 that in the picture. Is that accurate?  3 MS. LIDE: That's my perception, yes. Not all  4 those cars are lined up to turn into Holy Cross. And then if  5 you look at the westbound traffic, not all of those cars have  6 clearly come out of Holy Cross.  7 MS. GIRARD: And are you aware of whether the  8 traffic analysis that was done by the Applicant's consultant  9 counted just the school trips or all trips on the roadways?  10 MS. LIDE: I'm assuming they counted all the  11 trips. I know that there -- from what I can understand, they  12 are looking at various points and things like that. But I  13 will tell you, as a layperson I find it very, very difficult  14 to understand the calculations involved, but I will also say  15 that I also find it very, very difficult to accept that if  16 you are putting that many people, that many staff into an  17 assisted living facility and that many new homes, that I  18 don't remember -- recall exactly what the number of the new  19 trips generated. It seemed very low to me.  20 And I would also point out that from my  21 perspective, from my vantage point, it seems to me that a lot  22 of the improvements are really designed to make it easier for  23 traffic to get in and out of this new community even if it's  24 at the expense of the existing residents, longtime residents  25 who would really like to be able to get out of their</p>

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<p style="text-align: right;">300</p> <p>1 community safely as well and would really like to be of the</p> <p>2 cross Strathmore safely as well. We are -- we like to walk.</p> <p>3 We are a walkable community and we would like to be able to</p> <p>4 continue doing that.</p> <p>5 MS. GIRARD: So it is your understanding that all</p> <p>6 of the traffic analysis includes school traffic and existing</p> <p>7 traffic on the roads unassociated with the school?</p> <p>8 MS. LIDE: I have to assume that because I am not</p> <p>9 a traffic expert.</p> <p>10 MS. GIRARD: And your perception that the</p> <p>11 improvements will only benefit the project are based on what?</p> <p>12 MS. LIDE: Well, the way I see it, if you put the</p> <p>13 sensor light at the main entrance way, that makes it easier</p> <p>14 for cars, emergency vehicles to get in and out of the new</p> <p>15 development. But because of the way traffic stacks up, it</p> <p>16 doesn't create enough of a gap for us to get out. And the</p> <p>17 proposal that, oh well, we will sort that out because we will</p> <p>18 synchronize it with the traffic light on Rockville Pike, but</p> <p>19 a lot of the traffic that comes onto Strathmore is coming</p> <p>20 north of Rockville Pike. They do not stop at a traffic</p> <p>21 light. They do not turn right at a traffic light. There is</p> <p>22 a right access lane that goes directly -- feeds directly with</p> <p>23 no stop onto Strathmore Avenue. So I don't know how you</p> <p>24 control that. You can't say that, oh, this traffic light</p> <p>25 creates gaps that are adequate.</p>	<p style="text-align: right;">302</p> <p>1 sidewalk is across the street from the current center</p> <p>2 entrance to the old convent; is that correct?</p> <p>3 MS. LIDE: Yeah. And it seemed -- I'm not even</p> <p>4 sure you can put a bus stop there. Honestly, it seems like</p> <p>5 it's almost in the middle -- would have buses stopped in the</p> <p>6 middle of the intersection. So I'm not really sure why that</p> <p>7 is that --</p> <p>8 MR. BURDIN: Okay. I'm just -- I'm just trying to</p> <p>9 orient myself for where -- because I was questioning the</p> <p>10 architect about the proposed center entrance and that</p> <p>11 sidewalk that they showed in the picture. If the -- if that</p> <p>12 intersection, that proposed center intersection was moved to</p> <p>13 the east, and I'm not sure if it's proposed to be or not, but</p> <p>14 if it was moved to the east it would no longer align with the</p> <p>15 existing sidewalk and bus stop on the north side of</p> <p>16 Strathmore; is that correct?</p> <p>17 MS. LIDE: Yeah, but that might actually make the</p> <p>18 bus stop usable.</p> <p>19 MR. BURDIN: I'm just -- okay. I was just trying</p> <p>20 to figure out about the alignment of the proposed new center</p> <p>21 entrance with that sidewalk and the buffer. I think I</p> <p>22 understand what --</p> <p>23 MS. LIDE: Yeah. I have a hard time understanding</p> <p>24 the overlay of the existing to the proposed --</p> <p>25 MR. BURDIN: Yes, so do I.</p>
<p style="text-align: right;">301</p> <p>1 MS. GIRARD: And this is your opinion?</p> <p>2 MS. LIDE: This is my opinion, yes.</p> <p>3 MS. GIRARD: That's all I have.</p> <p>4 HEARING EXAMINER BAUMGARDNER: Mr. Burdin, any</p> <p>5 questions for Ms. Lide?</p> <p>6 MR. BURDIN: Yeah, just about the bus stop on the</p> <p>7 north side in the buffer I think right near your house.</p> <p>8 There is a sidewalk currently that goes from that bus stop to</p> <p>9 the Strathmore access road, correct?</p> <p>10 MS. LIDE: Oh, yeah. Yes. Yes. I meant to</p> <p>11 mention that. There is a narrow sidewalk that goes there.</p> <p>12 MR. BURDIN: Okay.</p> <p>13 MS. LIDE: However I -- no, I also didn't</p> <p>14 understand the logic that if you're trying to create a</p> <p>15 walkable community and get people to walk with their kids to</p> <p>16 school from this new development to come out to Strathmore,</p> <p>17 cross at a light and then the sidewalk -- the sidewalk to get</p> <p>18 to -- to get to the safe sidewalk that's on the far north</p> <p>19 side of the street in front of the homes you would have to</p> <p>20 cross that access road that people are zipping in and out and</p> <p>21 also trying to go to school and go to work themselves.</p> <p>22 MR. BURDIN: So there is no crosswalk where the</p> <p>23 buffer sidewalk hits the access road, right?</p> <p>24 MS. LIDE: No. No. No.</p> <p>25 MR. BURDIN: Okay. And the bus stop in the</p>	<p style="text-align: right;">303</p> <p>1 MS. LIDE: And I would like to state for the</p> <p>2 record, it's like, all right, great. Let's (inaudible) all</p> <p>3 of those, those -- that greenery on there.</p> <p>4 MR. BURDIN: Okay.</p> <p>5 MS. LIDE: And restore the green buffer, the</p> <p>6 vertical buffer as well as preserve the green buffer.</p> <p>7 MR. BURDIN: Okay. Thank you. That's all I have.</p> <p>8 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, any</p> <p>9 redirect of Ms. Lide?</p> <p>10 MR. SHAFFER: No, sir.</p> <p>11 HEARING EXAMINER BAUMGARDNER: Okay. Thank you,</p> <p>12 very much for your testimony, ma'am. Mr. Shaffer, your next</p> <p>13 witness, please.</p> <p>14 MR. SHAFFER: I have no further witnesses.</p> <p>15 HEARING EXAMINER BAUMGARDNER: Okay.</p> <p>16 MR. SHAFFER: I understand Mr. Burdin and his wife</p> <p>17 may want to testify, but they're not technically a part of</p> <p>18 our community. So I will let them go on their own.</p> <p>19 HEARING EXAMINER BAUMGARDNER: Understood. So</p> <p>20 what will do is we will -- does anyone need a break, first of</p> <p>21 all. Do we need five minutes or do we want to push through</p> <p>22 until noon? All right.</p> <p>23 So we will open it up to members of the community</p> <p>24 who are not represented by counsel. If you want to give your</p> <p>25 testimony now, now would be a good time. You can raise your</p>

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<p style="text-align: right;">304</p> <p>1 virtual hand using the virtual hand feature on the top of  2 your screen towards the right. It's the third icon in. If  3 you put your cursor over that icon and click on the hand, it  4 will raise your virtual hand. Or otherwise indicate to me by  5 either waving your hand or unmuting yourself if anyone else  6 wants to give testimony right now.  7 Looking down the list. All right. So let's do  8 Councilwoman Bennett. Mr. Burdin, since you are a party we  9 will wait for yours. So we will go with Councilwoman  10 Bennett. I don't see any other raised hands or anyone else  11 indicating to me that they would like to offer -- actually,  12 we have one more, Ms. Prebble. So let's do Councilwoman  13 Bennett. You can unmute yourself and we will get your name,  14 your address and email. We will swear you in and then you  15 can provide your testimony.  16 MS. BENNETT: Okay. My name is Gerilee Bennett,  17 Council member of the town of Garrett Park. Email address is  18 CouncilGerilee@GarretParkMD.gov.  19 HEARING EXAMINER BAUMGARDNER: Thank you, very  20 much, ma'am. Can you please raise your right hand?  21 Do you swear or affirm under penalties of perjury  22 that the testimony you are about to give is the truth, the  23 while truth and nothing but the truth?  24 MS. BENNETT: I do.  25 HEARING EXAMINER BAUMGARDNER: All right. You are</p>	<p style="text-align: right;">306</p> <p>1 congested stretch of Strathmore Avenue. With three school  2 complexes along this same stretch of Strathmore Avenue, we  3 are concerned that this development will add much more  4 congestion to this heavily traveled thoroughfare.  5 We are concerned that the traffic analyses do not  6 adequately account for the ongoing pandemic reduction in  7 traffic, nor planned development in the areas of the former  8 White Flint Mall, Strathmore Square, Kensington and Pike and  9 Rose. Mr. Lester of EYA noted that EYA's tagline is, life  10 within walking distance. We believe the county must ensure  11 this project lives up to this transit oriented billing. We  12 agree with the planning staff that the projects initial  13 design too heavily emphasizes automobile travel.  14 For example, we agreed that the wide and long  15 townhouse driveways will result in an auto dominated  16 streetscape. In addition, we suggest the following. First,  17 consolidate the entrances and exits on and off of Strathmore  18 Avenue consistent with 2.11 of the bicycle master plan, which  19 calls for driveways and curb cuts to be consolidated along  20 master planned bikeway facilities. Strathmore Avenue has a  21 master plan side path which is a type of bikeway facility.  22 The applicant has indicated that the existing three driveways  23 for the Academy and the much smaller St. Angela Hall justify  24 the construction of two full roadways and an additional  25 service truck Insurance. Three curb cuts for what is billed</p>
<p style="text-align: right;">305</p> <p>1 welcome to provide your testimony regarding this application.  2 MS. BENNETT: All right. Good morning Mr.  3 Baumgardner. I am Gerilee Bennett, town council member of  4 Garrett Park and I'm submitting this testimony on behalf of  5 the Town of Garrett Park. Thank you for the opportunity to  6 provide input for this local map amendment application  7 review. This development is of great interest to the Town of  8 Garrett Park and our residents. The town limits are less  9 than one-quarter mile away on Strathmore Avenue, and the town  10 owned community center which houses a preschool and  11 playground is within the staff defined neighborhood and is  12 adjacent to the Holy Cross school and church property as well  13 as Garrett Park Elementary School.  14 It is our position that the county should not  15 approve the LMA for this development as currently proposed.  16 We would like to take this opportunity to summarize our  17 feedback and concerns as well as recommended conditions after  18 our review of the detailed application materials made  19 available for public review. We appreciate the care the  20 developers are taking to preserve green space and attract  21 multigenerational occupants.  22 Our foremost concern is the Ottoman bill  23 orientation of the site plan despite the proximity to  24 Grosvenor Metro station and the subsequent impact of  25 additional traffic flowing in and out of the already highly</p>	<p style="text-align: right;">307</p> <p>1 as a comprehensive, multigenerational housing development.  2 However, this development will result in an off  3 street shared use bicycle pathway, well, shared use pathway  4 rather than the existing on road shared use for bicycles and  5 automobiles along this stretch of Strathmore Avenue. This  6 new shared use off street side path will be far less safe and  7 inconsistent with the bicycle master plan recommendations if  8 it has three roadway curb cuts cutting through in very short  9 succession.  10 Given the developer's transportation study finding  11 of minimal anticipated vehicle trips resulting from the  12 project, three entrances are excessive and will further  13 encourage automobile trips. The comprehensive project  14 information indicates estimates that the development adds  15 minimal vehicle trips at peak hours. If this is truly the  16 case, one entrance to the development should be sufficient.  17 Two is the more appropriate maximum for the LMA conditions.  18 We request an LMA condition that the additional --  19 that additional study and serious consideration be given to  20 the most beneficial traffic design to improve the flow of  21 traffic along Strathmore Avenue during busy hours. We see  22 potential benefits if the light and lane, turn lane is placed  23 at Stillwater Avenue aligned with what is the most  24 appropriate main entrance of the development. A signal  25 located at Stillwater Avenue and Strathmore could potentially</p>

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<p style="text-align: right;">308</p> <p>1 benefit both the existing residents of Garrett Park Estates 2 and White Flint Park as well as the residents of the new 3 development. 4 EYA seems to be indicating that the surrounding 5 community must choose between the traffic flow improvements 6 that the additional turn lanes would provide and the green 7 median strip on the Strathmore frontage access road. The 8 developer could provide the additional right-of-way on the 9 south side of Strathmore to enable the additional turn lane. 10 The inclusion of three roadway entrances and exits may serve 11 to undermine the effectiveness of the signal and turn lane 12 measures at the main entrance. 13 The care facility could be moved to the western 14 side and more inside the housing development which would help 15 to better disguise the buildings height and massing at this 16 lower point of the property so that it would not stand out so 17 much and cause less alteration of the current streetscape 18 character. The site plan could be modified so that the care 19 facility as well as the school or accessed via the single 20 main entrance to the development at Strathmore -- Stillwater 21 Avenue. 22 We recommend an LMA condition that the parking 23 lots and loading docks supporting the residential care 24 building be tucked behind the building and accessed from a 25 road within the development rather than facing an access</p>	<p style="text-align: right;">310</p> <p>1 path directly from the property to Metro directly onto 2 Tuckerman Lane. We understand that topography and the stream 3 at the southwestern portion of the lot is a challenge, but we 4 urge that the LMA be conditioned upon incorporation of direct 5 transit oriented pedestrian ingress and egress if feasible. 6 Such a footbath will not only promote transit use 7 of Brandywine and residents of the new homes, but also allow 8 for access to new dining and retail that is already planned 9 at Strathmore Square adjacent to Grosvenor Metro station as 10 well as events at Strathmore Hall without automobiles. The 11 Applicant has indicated that it does not have ownership of 12 the Academy of the Holy Cross property that abuts Tuckerman 13 Lane. With all due respect, Exhibit 3 makes it clear that 14 the Academy is a partner of this development, thus securing 15 right-of-way for such a pedestrian path and bridge is within 16 the power of the development partnership. 17 This development feeds into the Garrett Park 18 Elementary School which has a history of overcrowding and 19 portable classrooms. New developments at Strathmore Square, 20 Harwood Flats and the White Flint area all feed into Garrett 21 Park Elementary School. It is unacceptable to approve an LMA 22 for this property to add denser housing without a clear 23 funded Montgomery County public school plan for another 24 elementary school in this cluster. 25 More importantly, the LMA should be conditioned on</p>
<p style="text-align: right;">309</p> <p>1 directly from Strathmore Avenue, which would be very visible 2 to the single-family homes across the way on the north side 3 of Strathmore Avenue. 4 As currently depicted, large delivery trucks may 5 be motivated to back into the loading area directly from 6 Strathmore Avenue creating further traffic disruption. Such 7 a fundamental shift from the current tree-lined character of 8 Strathmore Avenue is also just an unaccepted alteration 9 towards a more commercial streetscape in the neighborhood. 10 The development circulation plan can easily be modified to 11 support access to the rear via a signaled intersection at 12 Stillwater Avenue, which is the more appropriate entrance for 13 trucks. 14 To this point EYA has presented this application 15 as a comprehensive housing development and stressed that the 16 care facility is a residential building. As such, the care 17 facility's service entrance should be accessed from within 18 the comprehensive housing development and not directly from 19 Strathmore Avenue. We note the planning board has repeatedly 20 articulated a preference for Montgomery County public school 21 site plans to place parking lot to the rear and for the 22 street facing side to be more inviting to pedestrians and the 23 neighborhood. 24 This development should also follow these good 25 design principles. The plan should include a pedestrian bike</p>	<p style="text-align: right;">311</p> <p>1 a funded and planned safe pedestrian access to Garrett Park 2 elementary school and the two preschools that are located 3 within that school complex. It is unrealistic and unsafe to 4 rely on a plan that children will cross Strathmore Avenue 5 twice, once to get to the sidewalk on the north side and then 6 again to cross back over to the south side of Strathmore at 7 Kenilworth Avenue in order to reach the schools. The 8 completion of this pedestrian pathway ensuring a safe route 9 to the schools should be a condition of LMA approval. 10 A housing development of this size designed for 11 families of all ages should also provide adequate 12 recreational facilities for its residents. It is shocking 13 that the development includes only one small, not clearly 14 laid out play area on the outskirts of the town homes 15 adjacent to a roadway rather than centrally located within 16 the residential area. The locations of the closest existing 17 playgrounds in this area were strategically situated to 18 support their associated communities and the neighboring 19 elementaries and preschool -- elementary and preschools. 20 It is also shocking that the developers planning 21 documents cite the surrounding neighborhood playgrounds as 22 adequate facilities to support the new development. First, 23 the new development lacks a safe pedestrian access to the 24 playgrounds near the schools, as I just mentioned, and 25 families would need to cross the heavy traffic of Strathmore</p>

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<p style="text-align: right;">312</p> <p>1 Avenue to reach any other playgrounds in the area. Secondly, 2 the development itself should provide adequate play area to 3 avoid overcrowding at existing playgrounds. We request an 4 LMA condition that adequate playground facilities be provided 5 on site within the development. 6 In summary we recommend the following conditions 7 be added to the approval of the LMA. One, reduce the number 8 of entrances and exits directly onto Strathmore Avenue. Two 9 condition additional traffic study and consideration of the 10 traffic flow improvement measures to benefit the community as 11 a whole factoring in safety of pedestrians. 12 Three, place the service and the loading dock and 13 staff parking of the care center behind the building and not 14 directly against Strathmore Avenue. Four pursue direct 15 pedestrian pathway to Tuckerman Lane. Five, safe pedestrian 16 pathway to Garrett Park elementary school should be provided. 17 And six, provide an adequate playground facility on site. 18 Thank you, very much for your consideration of our 19 recommendations and concerns. 20 HEARING EXAMINER BAUMGARDNER: Thank you very 21 much, ma'am. Ms. Girard, any cross-examination of 22 Councilwoman Bennett? 23 MS. GIRARD: Yes, thank you. Sorry. I was still 24 writing feverishly. 25 HEARING EXAMINER BAUMGARDNER: That's all right.</p>	<p style="text-align: right;">314</p> <p>1 been considered, what the pros and cons of a signal or a 2 circle at Stillwater might have been. It just seems like 3 we've been presented with the one option and some minor pros 4 and cons to that without full disclosure of what other 5 options might be there that might provide better traffic flow 6 and safety, particularly pedestrian safety in the area. 7 MS. GIRARD: Was this ever -- did Garrett Park 8 ever ask staff, the Applicants, MCDOT, SHA what other options 9 were available? 10 MS. BENNETT: We are asking for that now. 11 MS. GIRARD: And do you know how long the traffic 12 study has been pending in front of the county for approval? 13 MS. BENNETT: No, I'm not sure. 14 MS. GIRARD: Do you recall Katie Wagner's 15 testimony that it was submitted last December? 16 MS. BENNETT: December 2021? 17 MS. GIRARD: December of 2020. 18 MS. BENNETT: I don't recall that, no. Thank you. 19 MS. GIRARD: So when you say that it was rushed, 20 that's just your perception? 21 MS. BENNETT: I guess you could say that. 22 MS. GIRARD: And are you aware that the traffic 23 study was reviewed and approved by the Montgomery County 24 Department of Transportation and the State Highway 25 Administration?</p>
<p style="text-align: right;">313</p> <p>1 MS. GIRARD: Just a couple of questions. And I 2 would just focus primarily on your recommendations. When you 3 speak to the reduction of the number of entrances, has the 4 town done any studies as to what that would do with regard to 5 circulation on the project, emergency access, et cetera? 6 MS. BENNETT: No. As I said, we encourage further 7 traffic study for safety and traffic flow. 8 MS. GIRARD: Can you explain that a little bit 9 further? That was number two, right? 10 MS. BENNETT: Yes. 11 MS. GIRARD: Can you explain what you mean by 12 that? 13 MS. BENNETT: Based on the community concerns 14 raised by Garrett Park Estates and White Flint Estate 15 neighbors as well as neighbors in our community who have 16 contacted the town, we believe that the traffic study for the 17 safety and flow as perhaps not -- has been done rather 18 quickly. We haven't been shown what other options were 19 considered and what the pros and cons of those options were. 20 MS. GIRARD: What do you mean with regard to 21 options? 22 MS. BENNETT: So far we've only been shown what 23 the developer chose to do or chose to provide, the one signal 24 light at, I think you are calling it street A with a left 25 hand turn lane. We don't know what other options might have</p>	<p style="text-align: right;">315</p> <p>1 MS. BENNETT: Yes, I'm aware that State Highway is 2 reviewing the traffic proposals and studies. 3 MS. GIRARD: With regard to the service dock 4 behind the building, when you say behind the building what do 5 you mean? Because it's currently the opposite of where the 6 front door is. 7 MS. BENNETT: Yes. When I say behind, I mean 8 behind the building so that it is not facing in Strathmore 9 Avenue. 10 MS. GIRARD: And your concern is the visibility? 11 MS. BENNETT: My concern is, as I said, several 12 things. One, it adds an additional entrance on and off of 13 Strathmore Avenue directly. And also, for the neighbors in 14 that area it's presenting the parking lot, dumpsters loading, 15 unloading activities for that large 145, 150 bed facility to 16 the neighborhood that already exists, rather than putting it 17 behind the facility where it's less visible to the 18 surrounding neighborhood. 19 MS. GIRARD: So visibility is a concern? 20 MS. BENNETT: That is one concern, yes. 21 MS. GIRARD: Have you asked for specifics or are 22 you aware of specifics regarding distance, visibility, 23 screening? 24 MS. BENNETT: At one of the meetings we 25 participated in with EYA we encouraged them to provide</p>



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<p style="text-align: right;">316</p> <p>1 natural screening and I do believe that EYA in the depictions  2 they are providing tree screening so we appreciate that. But  3 I think the safety concern of the additional curb cut and the  4 traffic going in and out of there combined with the  5 visibility of the parking lot and the dumpster area, the two  6 factors combined would argue that it would be better placed  7 inside of the development.  8 MS. GIRARD: But when you say visibility you are  9 not sure how visible it will actually be?  10 MS. BENNETT: How could we be? The renderings  11 don't actually show that side at all. They only show the  12 front side of the care facility.  13 MS. GIRARD: And when you say safety that's based  14 on what?  15 MS. BENNETT: As I said before, the pedestrian and  16 bicycle safety of having to cross another unsignaled curb  17 cut.  18 MS. GIRARD: Have you examined the safety  19 associated with bringing trucks in a different entrance where  20 they might be mingling with school traffic and residential  21 traffic?  22 MS. BENNETT: I'm sorry, say that again?  23 MS. GIRARD: So the focus is on pedestrian and  24 bicycle safety. But have you examined the safety concerns  25 that may or may not be associated with bringing the trucks in</p>	<p style="text-align: right;">318</p> <p>1 MS. GIRARD: Okay. The pedestrian connection to  2 Tuckerman, are you aware of whether there is sufficient area  3 within the existing right-of-way to put a new sidewalk?  4 MS. BENNETT: Our proposal is that this be  5 conditioned -- that it be considered if feasible. We're not  6 pretending to know whether it's feasible are to have done  7 technical studies. We're just proposing that it be looked at  8 more closely.  9 MS. GIRARD: Okay. So if it's in private  10 ownership you're acknowledging that that's not something the  11 Applicant can control?  12 MS. BENNETT: If the private ownership is a member  13 of the current partnership, it's our view that it is within  14 the power of the developer to work with their partner,  15 Academy of Holy Cross to make a walkway work.  16 MS. GIRARD: Maybe we're talking -- I'm talking  17 about the connection -- oh, to Tuckerman. I see what you're  18 saying. I also wanted to address the connection to Garrett  19 Park Elementary School.  20 MS. BENNETT: Oh, I'm sorry. I misunderstood your  21 question.  22 MS. GIRARD: I may have said Tuckerman. I  23 apologize. I may be the one confusing things.  24 MS. BENNETT: I'm not sure what the right of way  25 limits that there are. I know that there are ongoing</p>
<p style="text-align: right;">317</p> <p>1 Street A and having them mingle with school traffic and other  2 traffic associated with a residential neighborhood?  3 MS. BENNETT: If they enter any signaled Mike,  4 perhaps at Stillwater as a central entrance it's going to be  5 better protected because there would be pedestrian lighting,  6 you know, signal lighting as well.  7 I'd like to go back a moment. You asked me about  8 the traffic study approval in December of 2020. I'd like to  9 remind you that Garrett Park was only noticed of this  10 development in January of 2021, after that traffic safety  11 study.  12 MS. GIRARD: Correct. That was a year ago,  13 correct?  14 MS. BENNETT: Correct. My point being that there  15 was no effort to reach out to the community while the traffic  16 study was underway.  17 MS. GIRARD: The traffic study having been  18 submitted just the month before.  19 MS. BENNETT: Right. But I just wanted to clarify  20 that we were provided notice after it was completed.  21 MS. GIRARD: And were you provided notice before  22 the application was formally accepted?  23 MS. BENNETT: Our understanding is that the  24 application had already been submitted when the town was  25 notified. That's what we were told at the time.</p>	<p style="text-align: right;">319</p> <p>1 discussions. My view is, is that the County has the  2 responsibility of approving this local map amendment, and  3 they should do it only if adequate facility supported. And  4 right now, there is not an adequate pedestrian access  5 facility to support it.  6 MS. GIRARD: In your opinion?  7 MS. BENNETT: In my opinion, yes.  8 MS. GIRARD: And with regard to the adequacy of  9 the play areas, are you aware that there are certain  10 recreational standards and open space standards contained in  11 the zoning ordinance and associated regulations?  12 MS. BENNETT: Yes.  13 MS. GIRARD: So when you say -- and do you know,  14 based on the testimony you've heard, or your own independent  15 analysis, whether in the proposed application will meet with  16 those requirements?  17 MS. BENNETT: It's hard to say because the  18 renderings really don't show any details of what the  19 playground space would look like.  20 MS. GIRARD: But with regards to seeing --  21 MS. BENNETT: Our primary concern is really not so  22 much whether it meets the minimal regulatory requirement, but  23 that it would actually be a useful, adequate play area for  24 the multi-generational community there. And also,  25 understanding that if the development is dependent on the</p>

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<p style="text-align: right;">320</p> <p>1 playgrounds in the surrounding area, they all require a  2 crossing of Strathmore Avenue to get to them safely.  3 MS. GIRARD: So when you say adequate, you mean  4 adequate in terms of the town's subjective opinion?  5 MS. BENNETT: We are providing our testimony based  6 on our opinion, yes.  7 MS. GIRARD: I just wanted clarification of that.  8 That's all I have. Thank you.  9 HEARING EXAMINER BAUMGARDNER: All right. The  10 time is 12:05 p.m. we are going to take our hour lunch break,  11 we will reconvene at 1:05.  12 Mr. Burdin, do you have any questions of  13 Councilwoman Bennett?  14 MR. BURDIN: Yeah, very quickly, not to interfere  15 with lunch.  16 HEARING EXAMINER BAUMGARDNER: Can we pick those  17 back up at 1:05? I just wanted to check with you.  18 MR. BURDIN: Oh. Sure.  19 HEARING EXAMINER BAUMGARDNER: Okay. You know, I  20 don't want to mess with your train of thought so you can even  21 write them down and --  22 MR. BURDIN: No, that's fine. I got it.  23 HEARING EXAMINER BAUMGARDNER: Okay. Good. We  24 will take our hour recess now, we will reconvene at 1:05 p.m.  25 for a quick follow-up questions from Mr. Burdin of</p>	<p style="text-align: right;">322</p> <p>1 p.m.)  2 HEARING EXAMINER BAUMGARDNER: It is 1:07 p.m.  3 This is still February 1st and we are going to go back on the  4 record in OZHA case local map amendment 143, the R60 zone to  5 the CRNF zone for the property located at 4910-4920  6 Strathmore Avenue. Just making sure that we have all of our  7 folks back.  8 We have our court reporter.  9 Ms. Girard are you still with us? There you are.  10 MS. GIRARD: Yes, I'm here.  11 HEARING EXAMINER BAUMGARDNER: Great. And Mr.  12 Shaffer and Mr. Burdin, the other two parties. Before the  13 lunch break we were doing a cross-examination of Councilwoman  14 Bennett. I believe Mr. Burdin had a follow-up question or  15 two for Ms. amendment. Just as a reminder, ma'am, you are  16 still under oath.  17 Mr. Burdin, you are welcome to begin your  18 questions.  19 MR. BURDIN: Okay. Well, I thought about it over  20 lunch, and I think I can cover what I wanted to ask her about  21 in my testimony. So I don't have any questions at this time.  22 Thank you.  23 HEARING EXAMINER BAUMGARDNER: Understood. Thank  24 you. Ms. Bennett, thank you very much for your testimony.  25 MS. BENNETT: Thank you.</p>
<p style="text-align: right;">321</p> <p>1 Councilwoman Bennett. Then, we will -- it looks like we have  2 two other individuals who would like to testify from the  3 community, I believe. And we will pick up the end with Ms.  4 Girard's rebuttal witness of Mr. Sloan, I believe.  5 Ms. Girard, are you still there?  6 MS. GIRARD: I sure am.  7 HEARING EXAMINER BAUMGARDNER: There was one thing  8 I wanted to follow up with you either on rebuttal with Mr.  9 Sloan. It's probably the best place to do this. There's  10 been some reference to in adequate public -- adequate public  11 facilities finding that is certainly more thorough under  12 preliminary plan, but I do have to make a finding on that.  13 So if you can address that issue, even with Mr. Sloan, or in  14 your closing. In the development process that tends to be  15 overlooked at this stage. And our agency has to constantly  16 remind planning that we have to make our own independent  17 finding on that. So if you can just make sure to go through  18 that either with Mr. Sloan or in your closing it will be  19 helpful.  20 MS. GIRARD: Yeah, I actually had a note on that.  21 So Mr. Sloan will address that.  22 HEARING EXAMINER BAUMGARDNER: Great. Well, thank  23 you all very much. We will see you all back at 1:07 p.m.  24 today.  25 (Off the record at 12:07 p.m., resuming at 1:07,</p>	<p style="text-align: right;">323</p> <p>1 HEARING EXAMINER BAUMGARDNER: All right. We are  2 at the stage where we were accepting public comment and  3 testimony from other members of the community who are not  4 currently represented by counsel. There were two members, I  5 believe, from the community that had raised their virtual  6 hand. I hadn't seen anyone else indicate that they wanted to  7 testify. So in order of my drop-down box here, Katy Prebble.  8 MS. PREBBLE: Yes.  9 HEARING EXAMINER BAUMGARDNER: Hello. If you can  10 just give us your full name, your address, and a good email  11 address, please?  12 MS. PREBBLE: Okay. My name is Kathleen Prebble.  13 You want my home address, I'm sorry, or work?  14 HEARING EXAMINER BAUMGARDNER: Are you a member --  15 MS. PREBBLE: I'm representing the Academy.  16 HEARING EXAMINER BAUMGARDNER: Your representing  17 who, ma'am, I'm sorry?  18 MS. PREBBLE: The Academy of the Holy Cross.  19 HEARING EXAMINER BAUMGARDNER: Okay. Did your  20 professional address and a professional email, please?  21 MS. PREBBLE: Thank you. 4920 Strathmore Ave.,  22 Kensington 20895. My email is first initial, last name,  23 KPrebble@AcademyoftheHolyCross.org.  24 HEARING EXAMINER BAUMGARDNER: All right. And  25 ma'am, would you please raise your right hand?</p>

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<p style="text-align: right;">324</p> <p>1 Do you swear or affirm under the penalties of</p> <p>2 perjury that the testimony you're about to get is the truth,</p> <p>3 the whole truth, and nothing but the truth?</p> <p>4 MS. PREBBLE: Yes.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Ma'am, you are</p> <p>6 welcome to testify regarding this LMA application.</p> <p>7 MS. PREBBLE: Thank you. And thank you for the</p> <p>8 opportunity to speak today.</p> <p>9 I've had the honor to serve as president of the</p> <p>10 Academy since 2013. And I've also been a homeowner in</p> <p>11 Montgomery County for the past 32 years. I currently reside</p> <p>12 in Silver Spring.</p> <p>13 When the Sisters first informed of their decision</p> <p>14 to sell the St. Angela Hall property, the Academy had just</p> <p>15 completed its first campus master plan. During this planning</p> <p>16 process it became abundantly clear to us that to continue to</p> <p>17 properly serve our students and attract students to our</p> <p>18 school we would need to enhance our current facilities,</p> <p>19 create additional parking on campus, and make our campus more</p> <p>20 welcoming and inclusive by making our 1956 building</p> <p>21 assessable, ADA accessible, which would also then included</p> <p>22 the campus itself with the creation of an ADA accessible ramp</p> <p>23 to our turf field.</p> <p>24 Our decision to build a new athletic and wellness</p> <p>25 center and create new parking and complete the long awaited</p>	<p style="text-align: right;">326</p> <p>1 With the new road and entrance to the campus we</p> <p>2 will continue to provide police officers during arrival and</p> <p>3 dismissal as we have done for many years. We will instruct</p> <p>4 our families and students drivers not to access the campus</p> <p>5 via the entrance to the townhomes that will be opposite</p> <p>6 Stillwater.</p> <p>7 We are also aware that Garrett Park Elementary</p> <p>8 currently provides bus service to their school at the</p> <p>9 Strathmore and Symphony Park entrance. I see those students,</p> <p>10 those young children waiting daily when I make my route to</p> <p>11 and from school. Several have suggested that our entry be</p> <p>12 relocated to the Tuckerman Lane. The student parking lot</p> <p>13 that is adjacent to the Stoneybrook townhome community has a</p> <p>14 path that our students and our faculty can access that takes</p> <p>15 them down to Cloister Drive and then over to Metro. Cloister</p> <p>16 Drive, as you know, is a private road owned by Stoneybrook.</p> <p>17 When the sisters originally purchased the land</p> <p>18 here in Kensington, they did on the land that the Stoneybrook</p> <p>19 townhouses exist on now. When the property was sold the</p> <p>20 school was given permission for pedestrian use only to use</p> <p>21 the private drive to access Metro. So that is used by our</p> <p>22 students and our faculty and staff. Parents are not even</p> <p>23 allowed to be on cloister Drive, as it is a private road.</p> <p>24 Many of you are also aware that the stream that</p> <p>25 prevents the development on the west side of our campus, the</p>
<p style="text-align: right;">325</p> <p>1 ADA work went from really a dream to a reality when we were</p> <p>2 approached by several developers with interest in buying our</p> <p>3 front acres, those adjacent to the St. Angela Hall property.</p> <p>4 With that, it would include a new entrance road to the</p> <p>5 school.</p> <p>6 We spent a great deal of time meeting several</p> <p>7 developers and hearing multiple plans. With great interest,</p> <p>8 we began to focus our attention on EYA and Brandywine who</p> <p>9 presented a concept of a multi-generational community, vastly</p> <p>10 different from any other developers. We were drawn to EYA</p> <p>11 and Brandywine for several reasons. First, the</p> <p>12 intergenerational community would create lesson density, and</p> <p>13 less traffic because of the concept of the senior living</p> <p>14 community, single-family homes, and townhomes. Knowing that</p> <p>15 few residents of Brandywine would actually be driving, and</p> <p>16 that Brandywine itself provides transportation for its</p> <p>17 residents.</p> <p>18 We were also pleased with the opportunity a senior</p> <p>19 living community would provide for our students to be</p> <p>20 actively engage with the residents of Brandywine through</p> <p>21 service, as well as the school providing opportunities for</p> <p>22 the residents of Brandywine to attend concerts and theater</p> <p>23 productions at the school, and even some possibilities of</p> <p>24 more active residents to actively mentor our students on our</p> <p>25 campus.</p>	<p style="text-align: right;">327</p> <p>1 land involved in the sale, that stream travels all the way up</p> <p>2 the side of the campus, wraps around the back, under Cloister</p> <p>3 Drive, and eventually makes its way to Rock Creek. The</p> <p>4 topography of that side of the campus is densely wooded and</p> <p>5 slopes significantly towards the stream valley. All of that</p> <p>6 is to say that it is not a favorable place for a road to be</p> <p>7 built that would access Tuckerman.</p> <p>8 Providing a walking path through our campus to</p> <p>9 access Tuckerman Lane and Metro would create a significant</p> <p>10 safety and security risk for our school that I believe no</p> <p>11 school would really be willing to accept. The safety of our</p> <p>12 students remains our highest priority in all that we do.</p> <p>13 We were, and continue to be impressed with the</p> <p>14 level of collaboration and cooperation in that EYA and</p> <p>15 Brandywine have exhibited throughout the whole process, from</p> <p>16 the design of the new entrance road, the level of landscaping</p> <p>17 and buffer zones created between the school and the</p> <p>18 townhomes, the walking path open to the larger community as</p> <p>19 well as to our students, and most importantly, the sincere</p> <p>20 interest in creating not only an attractive, but a safe</p> <p>21 community for those of us impacted by the sale of the land.</p> <p>22 As a school that has served the greater Washington</p> <p>23 community for over 150 years, it was important to us that we</p> <p>24 continue to be respectful of the community we live in. And</p> <p>25 selecting the right developers to purchase the land was</p>

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<p style="text-align: right;">328</p> <p>1 paramount in our decision, one that even superseded the</p> <p>2 ultimate dollar amount of the land sale.</p> <p>3 I would also like to note that although at the</p> <p>4 peak -- at its peak the school served 600 students, our</p> <p>5 campus improvements are not meant to substantially increase</p> <p>6 our current population of 400 students. A population of 600</p> <p>7 students is not anything that we seek in our future. We have</p> <p>8 grown to a point where somewhere between 4 and maybe 450 is</p> <p>9 probably the best size for the school, and that's how we have</p> <p>10 sized all of our operations here.</p> <p>11 What really is paramount to us is that we're able</p> <p>12 to continue the legacy of the Sisters of the Holy Cross by</p> <p>13 assisting young girls to grow into the empowered women of</p> <p>14 courage, compassion, and scholarship, a legacy begun in 1868</p> <p>15 when the Sisters opened their first school in Washington, DC,</p> <p>16 to the Kensington campus that became a reality in 1956.</p> <p>17 Our graduates have not only the local community</p> <p>18 here in Kensington, but the greater Washington, DC area, the</p> <p>19 country, and the world, in doing great works. The sale and</p> <p>20 development of our 8 acres will be a transformational moment</p> <p>21 for the future of the school, as it will allow us to continue</p> <p>22 to enhance and attract more students to be part of this</p> <p>23 legacy.</p> <p>24 Thank you.</p> <p>25 HEARING EXAMINER BAUMGARDNER: Thank you, Ms.</p>	<p style="text-align: right;">330</p> <p>1 MR. BURDIN: Okay. And you said that you are</p> <p>2 anticipating that the Brandywine residents will not drive</p> <p>3 much; is that right?</p> <p>4 MS. PREBBLE: Yes.</p> <p>5 MR. BURDIN: Okay. But you're not disputing that</p> <p>6 the Brandywine employees and visitors will use cars to get to</p> <p>7 and from the facility, right?</p> <p>8 MS. PREBBLE: Right.</p> <p>9 MR. BURDIN: Okay. And that the townhouses,</p> <p>10 single-family homes, will add traffic to Strathmore Avenue,</p> <p>11 right?</p> <p>12 MS. PREBBLE: Yes.</p> <p>13 MR. BURDIN: You're not disputing that. Okay.</p> <p>14 MS. PREBBLE: No.</p> <p>15 MR. BURDIN: I think that's all I have. Thank</p> <p>16 you.</p> <p>17 MS. PREBBLE: Thank you.</p> <p>18 HEARING EXAMINER BAUMGARDNER: Thank you very</p> <p>19 much. I believe that's all the questions we have for Ms.</p> <p>20 Prebble at this time.</p> <p>21 MS. WEITZ: I -- excuse me, I have a question. I</p> <p>22 had my hand raised, maybe you don't see me. This is Mrs.</p> <p>23 Weitz, Cynthia Weitz.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Okay. Well,</p> <p>25 typically we don't have -- so we typically don't have one</p>
<p style="text-align: right;">329</p> <p>1 Prebble.</p> <p>2 Ms. Girard, do you have any questions?</p> <p>3 MS. GIRARD: Nothing from me. Thank you.</p> <p>4 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, any</p> <p>5 questions for Ms. Prebble?</p> <p>6 MR. SHAFFER: None.</p> <p>7 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, that</p> <p>8 was a faint none, I think I heard?</p> <p>9 MR. SHAFFER: (Inaudible).</p> <p>10 HEARING EXAMINER BAUMGARDNER: Okay. Yeah, it's a</p> <p>11 little bit low.</p> <p>12 MR. SHAFFER: Okay. I don't know how to switch</p> <p>13 (inaudible). But the answer was no. I know you can</p> <p>14 (inaudible).</p> <p>15 HEARING EXAMINER BAUMGARDNER: Yes. Mr. burden,</p> <p>16 any questions for Ms. Prebble?</p> <p>17 MR. BURDIN: Yeah, just a few. I think you said</p> <p>18 that you will continue to employ the police officer that</p> <p>19 directs traffic; are you committing to doing that for any</p> <p>20 length of time?</p> <p>21 MS. PREBBLE: We're committed to doing that into</p> <p>22 the indefinite future. Having a light is -- will provide</p> <p>23 some relief, but we know that the arrival and the dismissal</p> <p>24 of our students is the most intense time, so yes, that is a</p> <p>25 commitment we are making.</p>	<p style="text-align: right;">331</p> <p>1 community member asking another community member a question.</p> <p>2 MS. WEITZ: Okay. That's fine.</p> <p>3 HEARING EXAMINER BAUMGARDNER: So Ms. Weitz, what</p> <p>4 might your question be?</p> <p>5 MS. WEITZ: I just wanted clarity on that she said</p> <p>6 additional parking and I just wanted a bigger description on</p> <p>7 who was going to be using the parking?</p> <p>8 HEARING EXAMINER BAUMGARDNER: Well, so --</p> <p>9 MS. WEITZ: Whether that's generating additional</p> <p>10 trips if there's going to be more parking available.</p> <p>11 HEARING EXAMINER BAUMGARDNER: I don't think</p> <p>12 that's an appropriate question at this time since Ms. Prebble</p> <p>13 is a representative of the school which, while my</p> <p>14 understanding is a party to the contract purchase, isn't a</p> <p>15 part of the subject application. So I understand your</p> <p>16 question, but I don't think it's appropriate at this time.</p> <p>17 All right. Let's see here. So I think we are</p> <p>18 done with Ms. Prebble's testimony. Thank you very much,</p> <p>19 ma'am.</p> <p>20 MS. PREBBLE: Thank you.</p> <p>21 HEARING EXAMINER BAUMGARDNER: Going down the list</p> <p>22 here, I have a Sister Ruth Marie Nikerson?</p> <p>23 SISTER NIKERSON: Yes, I'm here.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Hello, ma'am. Can</p> <p>25 you please give us your name, and your professional or</p>

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<p style="text-align: right;">332</p> <p>1 residential address and a good email address, please?</p> <p>2 SISTER NIKERSON: Yes. My name is Sister Ruth</p> <p>3 Marie Nikerson. I am a Sister of the Holy Cross. Our</p> <p>4 motherhouse is Notre Dame Indiana. I live in Kensington,</p> <p>5 Maryland on Denfeld Avenue. I am a graduate of the Academy</p> <p>6 of the Holy Cross.</p> <p>7 HEARING EXAMINER BAUMGARDNER: Ma'am?</p> <p>8 SISTER NIKERSON: Yes?</p> <p>9 HEARING EXAMINER BAUMGARDNER: I'm sorry.</p> <p>10 SISTER NIKERSON: You need an --</p> <p>11 HEARING EXAMINER BAUMGARDNER: So -- well, that's</p> <p>12 okay. Do you live in the immediate vicinity?</p> <p>13 SISTER NIKERSON: I live on Denfeld Avenue which</p> <p>14 is close by but not in the immediate -- I don't live in</p> <p>15 Garrett Park. I live on the other side of Connecticut</p> <p>16 Avenue.</p> <p>17 HEARING EXAMINER BAUMGARDNER: I understand. I do</p> <p>18 need to swear you in, ma'am. Can you please raise your right</p> <p>19 hand?</p> <p>20 And do you swear or affirm under the penalties of</p> <p>21 perjury that the testimony you're about to give is the truth,</p> <p>22 the whole truth, and nothing but the truth?</p> <p>23 SISTER NIKERSON: I do.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Thank you very</p> <p>25 much. What is your testimony?</p>	<p style="text-align: right;">334</p> <p>1 Cross that opened in 1956. That land was then also</p> <p>2 dedicated, given to the archdiocese for a parish that became</p> <p>3 Holy Cross Parish which is adjacent to St. Angela Hall today.</p> <p>4 Also on the premise was planned a hospital. The</p> <p>5 hospital was part of our ministries throughout the United</p> <p>6 States, and we thought it would be good to have a hospital on</p> <p>7 this land. But as we all know, it moved over to Silver</p> <p>8 Spring after negotiation and a request to move it over to</p> <p>9 Silver Spring, Maryland.</p> <p>10 The next was followed by St. Angela Hall, and it</p> <p>11 provided a beautiful home for our Sisters who were aging in</p> <p>12 place after all of these many ministries, there were a lot of</p> <p>13 aging Sisters, and it provided for the semi-retired, the</p> <p>14 retired. It also became a gathering place for all our</p> <p>15 sisters in the area. It has a very special place in the</p> <p>16 hearts of our Sisters.</p> <p>17 But as the building began to take on age, it had</p> <p>18 its effect on the building, and the significant high</p> <p>19 infrastructure costs to repair it, the question came is it</p> <p>20 appropriate use of our limited resources to rebuild it since</p> <p>21 we had a decreasing number of Sisters in the area.</p> <p>22 And after prayer and discernment, and also with</p> <p>23 the Mother House having availability to welcome our Sisters</p> <p>24 with a whole range of care from independent living to skilled</p> <p>25 nursing, the decision was made to sell the prime property of</p>
<p style="text-align: right;">333</p> <p>1 SISTER NIKERSON: I am a graduate of the Academy</p> <p>2 of the Holy Cross and I presently serve on the board of</p> <p>3 trustees of the Academy, and also as chair of the Academy at</p> <p>4 this time. But today, I'm not representing the Academy. I</p> <p>5 stand firmly behind Mrs. Prebble's -- I usually just call her</p> <p>6 Katy -- her presentation today, and it has the full support</p> <p>7 of the Board of Trustees. But I'm representing the Sisters</p> <p>8 of the Holy Cross, and affirming the decision that has</p> <p>9 brought us to this point today with Brandywine, and also with</p> <p>10 EYA.</p> <p>11 The last time I spoke to a group, I talked more</p> <p>12 about the Sisters of the Holy Cross and how we came to this</p> <p>13 area after the Civil War. And as Katy has said, Mrs. Prebble</p> <p>14 had said, that the Academy was opened in 1868 following the</p> <p>15 Civil War. So we came early on at that time, and since that</p> <p>16 time, we have engaged in ministries from colleges, high</p> <p>17 schools, parish schools, ministries to social outreach and to</p> <p>18 the various needs of our time, opening and closing ministries</p> <p>19 as appropriate. During World War II, we acquired, with the</p> <p>20 assistance of a very generous benefactor, the Corby estate</p> <p>21 which brings us to where we are today in the development.</p> <p>22 It became the headquarters for the Sisters of the</p> <p>23 Holy Cross. It became the Eastern Providence headquarters</p> <p>24 for the Sisters based out of Notre Dame, Indiana. The first</p> <p>25 development on that property was the Academy of the Holy</p>	<p style="text-align: right;">335</p> <p>1 St. Angela Hall to augment the work of our Sisters and</p> <p>2 ministries on for continents in the world today, in the</p> <p>3 global world today, where are Sisters care for the people</p> <p>4 with arising needs. So that was the decision that was made</p> <p>5 by the Sisters that really brought us to where we are today.</p> <p>6 In the years -- in the time after the decision was</p> <p>7 made the Sisters asked the various groups what they thought</p> <p>8 this next step should be for the development of the land, and</p> <p>9 they gathered information from many of the residents in the</p> <p>10 community and then putting that together developed a</p> <p>11 proposal, and sent out the proposal and asked for</p> <p>12 submissions. And those who submitted, the first was a</p> <p>13 Brandywine, as I understand it. And then the joint venture</p> <p>14 came, a potential joint venture with EYA if the Academy's</p> <p>15 land could be also used in the development.</p> <p>16 And for the Sisters this became a very important</p> <p>17 decision because not only was -- we were continuing care for</p> <p>18 seniors in our community now they weren't Sisters, but now we</p> <p>19 would be opening it up to the general public for the care of</p> <p>20 seniors. It also had intergenerational housing</p> <p>21 opportunities, and I think Katy spoke very much to the</p> <p>22 benefit that that would have for building community.</p> <p>23 The reason that the Sisters really looked to</p> <p>24 Brandywine and EYA was because of how they presented their</p> <p>25 professional work, what they have accomplished, and their</p>

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<p style="text-align: right;">336</p> <p>1 history in each of their fields, with their outstanding  2 reputations. But also, their interest and intent on building  3 community wherever they developed their programs. And so,  4 that really spoke to the Sisters and was part of the  5 decision, as well as looking at how we could enhance the  6 Academy, even though that was a separate decision of the  7 board of trustees of the Academy of the Holy Cross. But we  8 were delighted to see that the two could work together so  9 beautifully.</p> <p>10 And I do want to develop -- when the plan was  11 developed, and before the plan was developed, there were  12 numerous sessions with the community and residents about  13 opportunities and possibilities of what this it also was that  14 we listened to the concerns of the residents of the area and  15 tried to adjust appropriately, or they tried to adjust  16 appropriately. They worked not only with the Academy in  17 partnering with how to develop and make the changes that were  18 necessary, the Academy really had some demands that they  19 asked the new partnership, and they were met.</p> <p>20 As also the value of listening to the community  21 and trying to make the plans of the housing respond to the  22 community needs. And really, to build something that we  23 could all be proud of in the community.</p> <p>24 So I want to go back on one thing, and it is set  25 in the design of the project, the development project on both</p>	<p style="text-align: right;">338</p> <p>1 looking forward into the years. The Sisters of the Holy  2 Cross and believe in this project and fully affirm our  3 support of Brandywine and EYA today. So thank you very much  4 for listening to me.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Thank you very much  6 Sister Nikerson.</p> <p>7 Ms. Girard, do you have any follow-up questions  8 for this witness?</p> <p>9 MS. GIRARD: No, nothing. Thank you.</p> <p>10 HEARING EXAMINER BAUMGARDNER: Okay, Mr. Shaffer,  11 do you have any follow-up questions for this witness?</p> <p>12 MR. SHAFFER: (Inaudible).</p> <p>13 HEARING EXAMINER BAUMGARDNER: I believe I heard  14 you say no. Again, we're having trouble hearing you, Mr.  15 Shaffer. Can you try logging off and logging back on again?</p> <p>16 MR. SHAFFER: Yes.</p> <p>17 HEARING EXAMINER BAUMGARDNER: Okay, Mr. burden,  18 do you have any questions for this witness?</p> <p>19 MR. BURDIN: I do not.</p> <p>20 HEARING EXAMINER BAUMGARDNER: Thank you very  21 much, ma'am.</p> <p>22 I believe that complaints of the public testimony  23 portion of our hearing, save for Mr. burden, who is a party.  24 There you are Mr. Shaffer, we see you back there.  25 So what we're going to do now, and this will be</p>
<p style="text-align: right;">337</p> <p>1 the senior living and the housing, it was the community was  2 listened to. We tried to respond to what the needs, or the  3 desires of the community, and really again, to say something  4 that we were trying to build a community all would be proud  5 of.</p> <p>6 Yes, concerns were brought about -- were brought  7 up and attempted to be addressed. The developers, the design  8 of the project that wasn't done with considerable  9 professionalism, bringing in appropriate consultants as  10 necessary to respond to the various issues, and traffic was,  11 yes of course, one of the issues that was high on our list  12 that needed to be responded to and done.</p> <p>13 I do want to say that both EYA and Brandywine  14 respectfully listen to the neighbors, and tried to make  15 appropriate additions or changes that were appropriate,  16 taking into consideration the various planning -- Montgomery  17 County planning requirements. So there was a lot of  18 listening and addressing the concerns.</p> <p>19 I believe today that the plan that is it being  20 developed, and we know that it will continue to be revised  21 accordingly, will be appropriate as to traffic and to  22 approaching the -- both of the developments, the senior  23 living and Brandywine.</p> <p>24 But I believe we will have a place that we can all  25 be proud of and that it will be a part of the community</p>	<p style="text-align: right;">339</p> <p>1 the game plan for the rest of the afternoon. Mr. burden had  2 requested the ability to testify himself as a party, which is  3 certainly appropriate. And then, also, to give a closing  4 argument, which is also appropriate. So I think what we're  5 going to do now is allowed Mr. burden to testify as a  6 community member. Then we will switching gears back to Ms.  7 Girard to put on, I believe Mr. Sloan, as a rebuttal witness.  8 So we will go through some questions regarding that rebuttal  9 testimony. And then, we will do closing arguments with Ms.  10 Girard going first and then Mr. Shaffer, and then Mr. burden  11 at the end. Is that acceptable for everyone?</p> <p>12 MS. GIRARD: Yeah, just one point of  13 clarification. We're also going to call back Ms. Wagner.</p> <p>14 HEARING EXAMINER BAUMGARDNER: Okay. And in the  15 world of rebuttals that would be appropriate. So you're  16 going to start with Mr. burden. Sir, you are -- I don't  17 think we've sworn you in yet. So we will do that, and then  18 you can provide your testimony, sir.</p> <p>19 So again, can you just give us your full name,  20 your address, and a good email address, please?</p> <p>21 MR. BURDIN: Yes, Douglas Scott burden, 5112  22 Strathmore Avenue, Rockville, Maryland 20852.  23 DBurdin@Verizon.net.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Thank you very  25 much, sir. And do you swear or affirm under the penalties of</p>

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<p style="text-align: right;">340</p> <p>1 perjury that the testimony you're about to give is the truth,  2 the whole truth, and nothing but the truth?  3 MR. BURDIN: I do.  4 HEARING EXAMINER BAUMGARDNER: Thank you very  5 much. You are welcome to provide your testimony here today.  6 MR. BURDIN: Okay. I gave you my address, just  7 for context, it's in the north east corner of Symphony Park,  8 so very close to the proposed development. I've lived there  9 for almost two years, but I did grow up in Garrett Park, in  10 Garrett Park Estates, and you know, I used to play football  11 on the Holy Cross field and walked across the grounds and the  12 field and the convent.  13 Are you getting background noise?  14 HEARING EXAMINER BAUMGARDNER: I am not.  15 MR. BURDIN: Okay. My wife is vacuuming upstairs  16 and I can hear her, but I just wanted to make sure you  17 couldn't hear it.  18 I want to testify about a couple of things about  19 the transit use. I walked to the Metro station from  20 approximate the center point of the development frontage on  21 Strathmore Avenue at a regular pace and under clear and  22 normal conditions, it took me about 13 minutes, 13 or 14  23 minutes, and I estimate, what Mr. Edwards did come earlier,  24 that walking from the back or south end of the proposed  25 development on Strathmore on the path up to the Metro would</p>	<p style="text-align: right;">342</p> <p>1 on Symphony Park, few people in the townhouse use the Metro.  2 I wanted to note my observations, as others have,  3 about the traffic at Strathmore in both the 7:30 to 8:30, to  4 9:00 timeframe and the 2:30 to 3:30 time frame, around the  5 time when the schools are in session. Anytime the schools  6 have been in session I think there has always been a traffic  7 officer present, but what I have observed even though the  8 traffic officer is helping the flow of traffic in and out of  9 that entrance, there is still backup, sometimes past Symphony  10 Park and up toward Garrett Park, you know, to or close to  11 Kenilworth Avenue.  12 So despite what I have observed, despite the  13 presence of the police officer that the traffic still backs  14 up and the delays are still significant. And I have also,  15 occasionally, been stuck trying to get out of my development,  16 either going east or west and had delays from traffic. And I  17 have been personally in that traffic occasionally that gets  18 backed up on Strathmore.  19 I want to address it Ms. Wagner's answer to a  20 question in cross-examination yesterday about walking from  21 the proposed site to Garrett Park Elementary School. I  22 thought her answer was kind of muddled and propose some  23 things that aren't really feasible. And this assumes that  24 the developer will not be able to extend the path past their  25 eastern border up to the Holy Cross driveway.</p>
<p style="text-align: right;">341</p> <p>1 add another 4 or 5 minutes.  2 I also did the same thing walking to the Garrett  3 Park MARC station, is an acronym, station from the same  4 starting point and it took, again, about 13 or 14 minutes,  5 and again, walking from the back of the proposed development  6 would add 4 or 5 minutes. I note that starting from the  7 Brandywine proposed facility would be closer to the Garrett  8 Park MARC station but further from the Metro station. So  9 those people would have to walk further to the Metro.  10 My anecdotal observations are that very few  11 residents of Symphony Park, which is a 115 unit townhouse  12 development closer to Metro than the proposed site, that very  13 few residents of Symphony Park use the Metro. I'm often  14 walking my dog around 8 to 9 in the morning, sometimes  15 earlier, on the path near and on Symphony Park to Metro and I  16 very rarely, if ever, have seen what I thought was somebody  17 that looked like they were heading towards the Metro. In  18 other words, somebody in a suit, or that didn't -- weren't  19 out just for a casual walk.  20 I would also say that I don't think -- well, I've  21 never received a questionnaire or inquiry from anybody about  22 my use of the Grosvenor Metro station while I lived at  23 Symphony Park. And I've never seen anybody observing you  24 know, somebody that might have been trying to ascertain the  25 use of Metro by Symphony Park. Basically, I'm saying based</p>	<p style="text-align: right;">343</p> <p>1 She basically -- residents leaving the proposed  2 site would have three possible ways to get to Garrett Park  3 Elementary School. One would be, which I think Ms. Wagner  4 was talking about would be to use the sidewalk to the edge of  5 the property, and then cross the Holy Cross property using  6 what she called a goat path, which I've been on, it's just a  7 little dirt path where people have trampled the grass. You  8 can use that to cross the grassy part of the Holy Cross  9 church property.  10 That would bring you to two driveways they have a  11 going in and out of the church itself. They are two lane  12 driveways in both directions. One lane for parking, and one  13 lane for traffic. You would have to cross those, you would  14 then come to another street that -- you know, property road  15 that goes from the big Holy Cross parking lot to the church  16 and school area. I think that's where they drop and pick up  17 kids that are using -- using cars to drop off kids there.  18 That would take you to the Holy Cross, but large  19 parking lot that they have there. And to get to Garrett Park  20 from there, you would have to cross that parking lot and then  21 there's a chain link fence with only one opening. It's a  22 very rough, and not very pedestrian friendly open to Garrett  23 Park. And that would take you to the Garrett Park traffic --  24 parking lot. So there's a lot of detail, but the point is  25 it's not a way that any parent would take their kids to get</p>

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<p style="text-align: right;">344</p> <p>1 to Garrett Park. And again, I thought Ms. Wagner was  2 suggesting it was a feasible path.  3 The second way would be to walk to the edge of the  4 property on the new proposed sidewalk and then cross  5 Strathmore, but I don't think there's a crosswalk there. So  6 it would not be an acceptable ways to go either.  7 The third way, which is the most reasonable way  8 and would be to leave the property, cross Strathmore -- or  9 the most reasonable, cross Strathmore, get on the Strathmore  10 Avenue access road and the sidewalk there, walk north, and  11 then eventually you will come up with the sidewalk in Garrett  12 Park and cross Kenilworth -- I mean, cross Strathmore again  13 at Kenilworth and then proceed to the school.  14 So I just wanted to clarify the walk ability issue  15 a little bit.  16 The next thing I wanted to talk about some, not  17 surprisingly, is the traffic study and the issue that I was  18 crossing Ms. Wagner yesterday on, one of the issues. In the  19 original LATR traffic report as we look at it yesterday and  20 Table 7 there are massive delays in the existing and  21 background sections -- conditions for the school entrance at  22 Stillwater in the a.m. peak hours. And those were reduced to  23 about 10 seconds in the future condition with the additions  24 of the proposed -- you know in the future conditions includes  25 any cars added by the proposed project itself.</p>	<p style="text-align: right;">346</p> <p>1 identified as a problem with this existing intersection.  2 Now, the addition of the lane leaving the school  3 could help delays for those cars turning right because they  4 would presumably be less cars turning right stuck behind cars  5 that wanted to turn left but had to wait for traffic to  6 clear. That might help some for sure. But I don't think --  7 again, it wouldn't do anything to help cars turning on  8 Strathmore, turning left into the Academy. So I don't think  9 that either of those changes explain the massive reductions,  10 especially because the future conditions are going to add  11 cars to the roads.  12 Now, turning to the addition of the light and the  13 left turn lane that has been proposed, but not approved in  14 any way. Again, that might help, but it doesn't seem like at  15 the worst hours that would help any more than the police  16 officer is. In fact, the school, as we just heard, is still  17 committed to putting the officer there, in seeming  18 recognition that the traffic light wouldn't be adequate. As  19 I mentioned before, we still have delays and backups there  20 when there is a traffic officer there. And I don't think  21 that the traffic consultant explained any of these  22 adequately.  23 Now, one thing I'm not sure about if Mr.  24 Baumgardner, if you will give me a little guidance. Fact  25 witnesses have been suggesting conditions. I can do that now</p>
<p style="text-align: right;">345</p> <p>1 The supplemental analysis, there are also large  2 delays, not as large as in the original LATR, in the existing  3 and background for the a.m. peak for the school entrance,  4 which equates to the Stillwater entrance in the background --  5 I'm sorry, at the Stillwater school entrance intersection.  6 And again, those in the future conditions were reduced to a  7 level that was just above the congestion level. So they were  8 reduced and they started in the supplemental -- the delays  9 started at a lower number, around 225, and in the future were  10 reduced to 77.7, I think.  11 So the explanation for both reductions is two on  12 the ground proposed changes. The first proposal was to align  13 the proposed sites western entrance with Stillwater. And the  14 second proposed on the ground change would be to add a lane  15 coming out of the Academy entrance so there would be one lane  16 for cars turning right, going east, turning right into the  17 Academy, and two lanes leaving out. One to turn left onto  18 Strathmore out of the Academy, and one to turn right.  19 Now, looking at the first proposed change, the  20 realignment, I don't see how that would help very much at  21 all, or if at all, but very minimally at most. It would do  22 nothing to address the cars on Strathmore Avenue going west  23 and turning into the Academy, which is identified as one of  24 the big problems with this intersection. And it would not do  25 anything for cars turning left out of the Academy, also</p>	<p style="text-align: right;">347</p> <p>1 or in argument, I'm not sure which is appropriate.  2 HEARING EXAMINER BAUMGARDNER: I think either  3 would be appropriate.  4 MR. BURDIN: Okay.  5 HEARING EXAMINER BAUMGARDNER: To make it a little  6 easier in terms of the order, and particularly for my notes,  7 let's do it during your argument phase. That way we will  8 have the three parties to be able to address at that  9 particular issue in order.  10 MR. BURDIN: Okay. That's fine. I think that is  11 all I have.  12 HEARING EXAMINER BAUMGARDNER: All right. Thank  13 you very much, sir.  14 Ms. Girard, any questions for Mr. burden based  15 upon that testimony?  16 MS. GIRARD: I'm sorry. I may have just  17 misunderstood what happened. But Mr. burden said he was  18 going to propose conditions, but he is now suggesting he'll  19 do that in his closing argument?  20 HEARING EXAMINER BAUMGARDNER: That's correct. It  21 just to keep things flowing, I think if we have that at  22 closing as kind of a snapshot it would be a better way to --  23 well, I suppose if you're going to comment on those.  24 MS. GIRARD: Right that was my -- based on the  25 order that you had for closing statements I'd like an</p>



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<p style="text-align: right;">348</p> <p>1 opportunity to address any conditions that he is proposing.  2 HEARING EXAMINER BAUMGARDNER: I think that's  3 reasonable. So I take back what I said, Mr. Burdin. Let's  4 hear those conditions if you are prepared to provide them and  5 now. I do think it's reasonable for counsel to be able to  6 respond to those conditions if they are feasible, if they are  7 possible. So we will take those down now, if that's okay  8 with you.  9 MR. BURDIN: Yes. Sure. And I only have two.  10 The first would relate to the traffic light and the westbound  11 left turn lane to make that a condition of the approval so  12 that any benefit, which I'm not convinced of, but any  13 potential benefit from those two items would be a condition  14 of the approval.  15 The second would be an obligation to study traffic  16 obligation on the developers, or the owners of the project  17 sites to study traffic after the project is complete,  18 assuming that it gets approved, is complete and to ascertain  19 the effectiveness of the light and any other mitigation  20 measures without -- you know, with and without the traffic  21 officer. I'm not sure how that would play out. You know,  22 the church has committed to keeping it but I don't know that  23 that's binding and they're not a party so you can't bind  24 them.  25 And if that subsequent traffic study shows that</p>	<p style="text-align: right;">350</p> <p>1 MS. GIRARD: And would you agree that Metro  2 ridership has been much lower than pre-pandemic?  3 MR. BURDIN: I have read that to be the case.  4 MS. GIRARD: Okay. And are you aware, we heard  5 testimony from Ms. Prebble that Symphony Park kids are picked  6 up on Strathmore to go to Garrett Park Elementary School? Do  7 you know if that's true?  8 MR. BURDIN: I have heard that and I believe I  9 have observed that once or twice.  10 MS. GIRARD: So they don't walk to school, to your  11 knowledge?  12 MR. BURDIN: I have not seen anybody from my  13 development of school age walk to Garrett Park.  14 MS. GIRARD: Okay. And with regard to your  15 critiques of the traffic study, again, are these based -- do  16 you have any traffic engineering background? Is this your  17 opinion? Have you consulted with any experts?  18 MR. BURDIN: I am not an expert. And I have not  19 consulted with any experts.  20 MS. GIRARD: Okay. So your critiques of the  21 traffic study are your own opinion?  22 MR. BURDIN: They are my analysis of what I could  23 understand in the traffic studies. And, I mean, they're --  24 I'm trying to think if they're my opinion. They're my  25 factual ascertainment of what those documents mean.</p>
<p style="text-align: right;">349</p> <p>1 the projections by the traffic experts and that you're  2 relying on to the extent you do prove to be inaccurate that  3 there would be an obligation to further mitigate traffic  4 based on that subsequent study.  5 HEARING EXAMINER BAUMGARDNER: Understood. Thank  6 you Mr. Burdin.  7 Ms. Girard we'll turn it over to you for cross of  8 Mr. Burdin if you would like to ask any questions.  9 MS. GIRARD: Thank you. And I appreciate the  10 change of course to allow us to hear those conditions.  11 HEARING EXAMINER BAUMGARDNER: Sure.  12 MS. GIRARD: Mr. Burdin, you mentioned that you've  13 lived in Symphony Park for approximately two years.  14 Approximately when did you move in?  15 MR. BURDIN: March 2020. I've owned the property  16 since October 2019, rented it for about four months and then  17 moved in.  18 MS. GIRARD: And is it fair to say that your  19 observations of people walking to or from the Metro were --  20 have mainly been when you have lived there?  21 MR. BURDIN: They have only been when I have lived  22 there.  23 MS. GIRARD: And is it fair to say that you've  24 lived there primarily during the pandemic?  25 MR. BURDIN: That is fair.</p>	<p style="text-align: right;">351</p> <p>1 MS. GIRARD: Okay. That's all I have. Thank you.  2 HEARING EXAMINER BAUMGARDNER: Thank, you. Mr.  3 Shaffer, any questions of Mr. Burdin?  4 MR. SHAFFER: No, thank you.  5 HEARING EXAMINER BAUMGARDNER: Okay. I did have  6 one follow-up question for Mr. Burdin.  7 So sir, you live in the Symphony Park community,  8 correct?  9 MR. BURDIN: Yes.  10 HEARING EXAMINER BAUMGARDNER: And if you know,  11 when was that community built?  12 MR. BURDIN: Around 2013, '14.  13 HEARING EXAMINER BAUMGARDNER: And when -- and  14 again, only if you know, was there community opposition to  15 the construction of that development?  16 MR. BURDIN: I do not know.  17 HEARING EXAMINER BAUMGARDNER: And that's fair. I  18 was just curious if that was known to you or not. Okay.  19 That's all I have. Thank you very much.  20 We are going to -- so that's the questions for Mr.  21 Burdin. We're going to turn it back over to Ms. Girard for  22 the calling of any rebuttal witnesses and I'll turn that back  23 over to you now.  24 UNIDENTIFIED SPEAKER: You are on mute, Erin.  25 MS. GIRARD: Sorry. I'm going to recall Katie</p>

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<p style="text-align: right;">352</p> <p>1 Wagner.</p> <p>2 HEARING EXAMINER BAUMGARDNER: I do see Ms.</p> <p>3 Wagner. Ma'am, just as a reminder, you are still under --</p> <p>4 actually, you are not still under oath because we're on a</p> <p>5 different day. Can you please raise your right hand?</p> <p>6 Do you swear or affirm under the penalties of</p> <p>7 perjury that the testimony you are about to give is the</p> <p>8 truth, the whole truth and nothing but the truth?</p> <p>9 MS. WAGNER: I do.</p> <p>10 HEARING EXAMINER BAUMGARDNER: All right. We have</p> <p>11 your information from yesterday so you do not need to repeat</p> <p>12 that. I turn the witness back over to Ms. Girard for</p> <p>13 questioning.</p> <p>14 MS. GIRARD: Thank you.</p> <p>15 Ms. Wagner, were you present today listening to</p> <p>16 the testimony of Mr. Edwards regarding his counting of cars?</p> <p>17 MS. WAGNER: Yes, I was.</p> <p>18 MS. GIRARD: And can you address -- I believe you</p> <p>19 had spoke about it in your direct testimony, but can you just</p> <p>20 address for us again, what you did with regard to those</p> <p>21 counts, and how they may have differed from your own?</p> <p>22 MS. WAGNER: Yes. So I reviewed the counts that</p> <p>23 were provided to the community. Again, they are -- I have</p> <p>24 not found them as an exhibit for others to review as part of</p> <p>25 this hearing, but was provided them both the video as well as</p>	<p style="text-align: right;">354</p> <p>1 intersections that both the proposed signals at Stillwater</p> <p>2 and Flanders as recommended today will not be warranted.</p> <p>3 That SHA requires an eight-hour traffic warrant to be met, or</p> <p>4 a four-hour traffic warrant to be met at locations that are</p> <p>5 not at schools. And so I do not believe that SHA would</p> <p>6 approve traffic signals at either of those two locations.</p> <p>7 MS. GIRARD: And we also heard testimony this</p> <p>8 afternoon, or this morning, regarding the consolidation of</p> <p>9 the entrances. And particularly putting the loading</p> <p>10 activities along the main drive. Can you address that</p> <p>11 recommendation?</p> <p>12 MS. WAGNER: Yes. We worked for months prior to</p> <p>13 developing this plan for the access scenarios with park and</p> <p>14 planning staff and determined that each access point was</p> <p>15 needed for a very specific reason. The Stillwater connection</p> <p>16 was adamantly proposed by staff that they wanted to have that</p> <p>17 as a secondary access point for residents, for emergency</p> <p>18 vehicles to connect to the community.</p> <p>19 The center driveway is needed for the school</p> <p>20 driveway to be able to have a signal at that intersection to</p> <p>21 provide a controlled crossing for pedestrians to get to and</p> <p>22 from the many bus stops along Stillwater Avenue. And then,</p> <p>23 the third driveway for the loading activity to really be able</p> <p>24 to separate the back of house operations from the rest of the</p> <p>25 site so that the trucks are not interacting with the</p>
<p style="text-align: right;">353</p> <p>1 the Excel spreadsheet that the software they used counted the</p> <p>2 cars. We did not have access to that software and just</p> <p>3 relied on manually counting the cars in slow motion video</p> <p>4 that we just watched the video slowly.</p> <p>5 And I watched the first 10 minutes of the video</p> <p>6 and in my estimation -- or in my counting there were 168 cars</p> <p>7 that traveled through the intersection during that first 10</p> <p>8 minute time period and the spreadsheet indicated there were</p> <p>9 325 vehicles that traveled through the intersection at that</p> <p>10 time. So we're estimating that the video count software used</p> <p>11 almost doubled the traffic counts that were actually in the</p> <p>12 video.</p> <p>13 MS. GIRARD: Thank you. And with regard to the</p> <p>14 request for traffic signals at both Stillwater and Flanders,</p> <p>15 can you address how those signals may or may not meet</p> <p>16 applicable warrants and how SHA would review those?</p> <p>17 MS. WAGNER: Yes. SHA is very stringent on where</p> <p>18 traffic signals are allowed to be placed. They have the</p> <p>19 Manual of Uniform Traffic Control Device that they rely on.</p> <p>20 And in that, there are traffic signal warrants that need to</p> <p>21 be examined for any location a traffic signal is proposed.</p> <p>22 They have very strict traffic -- the number of vehicles that</p> <p>23 have to be at that intersection.</p> <p>24 And in my estimations, looking at the numbers that</p> <p>25 we have projected just during the peak hours at those</p>	<p style="text-align: right;">355</p> <p>1 residents and the pedestrians traveling in and out of the</p> <p>2 community.</p> <p>3 I also heard references to trucks backing into</p> <p>4 that loading area. The design of the loading area off that</p> <p>5 loading access driveway will be done in a way that trucks</p> <p>6 will not be able to back -- they will not be inclined to back</p> <p>7 up, that there will be plenty of maneuvering space within the</p> <p>8 site for the trucks to pull into the loading area.</p> <p>9 MS. GIRARD: Thank you. And can you just review</p> <p>10 for us, you know, there was questions about the traffic study</p> <p>11 and how it -- what standards it adhered to, how it was</p> <p>12 reviewed. I know you touched on this in your direct</p> <p>13 testimony but if you can just walk us through it one more</p> <p>14 time with regard how it's prepared, how it's reviewed?</p> <p>15 MS. WAGNER: Yes. So we scoped our traffic study</p> <p>16 with park and planning staff, with SHA and MCDOT in the fall</p> <p>17 of 2020. The reason I don't give an exact date is because we</p> <p>18 have ongoing discussions with staff about all of the things</p> <p>19 that each agency would like to see in our traffic study. And</p> <p>20 coordinating background developments to be included. How to</p> <p>21 handle school not being fully in session and how to take that</p> <p>22 into consideration.</p> <p>23 We submitted the first round of the LATR traffic</p> <p>24 study on December 18th, 2020. We then received comments from</p> <p>25 MCDOT and SHA and performed, as I noted yesterday, performed</p>

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<p style="text-align: right;">356</p> <p>1 a supplemental analysis using the 2013 and 2016 traffic 2 counts. And that original supplemental analysis was 3 submitted to staff on April 30th of 2021. And then, as this 4 is very typical with traffic studies, that based on the 5 original findings that then Staff has comments and we work 6 together to resolve those comments and submit one final 7 study. 8 So we submitted the final LATR traffic study to 9 park and planning staff to fulfill their requirements that we 10 had to have counts done in a certain timeframe to meet their 11 standards and then we also submitted the additional 12 supplemental analysis on August 24th, 2021 to meet the 13 concerns of MCDOT and SHA staff. 14 I would also like to point out that we knew that 15 this was a concern about doing a traffic study during the 16 pandemic and so we collected additional traffic counts in 17 December of 2021. These were done on a typical weekday. 18 They were done during the a.m. and p.m. peak hours and we 19 found that the counts collected in December of 2021 were 20 lower than what we included in our supplemental analysis and 21 this is all detailed in Exhibit 58C. 22 I would also like to point out that I am a 23 licensed professional engineer in the State of Maryland as 24 well as a professional transportation operations engineer and 25 the traffic studies are reviewed thoroughly by experts at</p>	<p style="text-align: right;">358</p> <p>1 safety concerns. And so to kind of address what we were 2 talking about yesterday as far as why are we -- that we want 3 transit oriented development the new growth and 4 infrastructure policy does take that into consideration by 5 setting out goals for getting people out of cars and to 6 provide that infrastructure to allow people to do that and 7 not just focusing solely on mitigating traffic concerns. 8 MS. GIRARD: Thank you. And one last question. 9 In response to the testimony we recently heard from Mr. 10 Burdin, is it your understanding that during the pandemic 11 Metro ridership has decreased? 12 MS. WAGNER: Yes. That is -- not only has it 13 decreased as a result of the pandemic and individuals 14 teleworking there has also been significant construction on 15 the Red line for the last nine months that has also severely 16 impacted Metro ridership and there is even, just based on my 17 personal experience that I rode the Metro every single day 18 and have taken it a handful of times in the past two years. 19 MS. GIRARD: Thank you. That's all I had for Ms. 20 Wagner. 21 HEARING EXAMINER BAUMGARDNER: Thank you very 22 much, ma'am. Do we have any cross, or I guess surrebuttal 23 question, but limited to the testimony that Ms. Wagner just 24 offered, starting with Mr. Shaffer? 25 MR. SHAFFER: No, I don't.</p>
<p style="text-align: right;">357</p> <p>1 MNCBPC, SHA, and MCDOT. 2 MS. GIRARD: Thank you, Ms. Wagner. And then, the 3 issue was raised, I guess during your cross and later about 4 Metro ridership and the assumptions that were taken in your 5 traffic study about Metro usage. You had mentioned in your 6 direct testimony that the property had moved from an orange 7 to a red policy area and would be subject to different 8 traffic study requirements when it goes -- if and when it 9 goes forward on different entitlements. Can you walk us 10 through what the Metro usage assumptions will be in the -- 11 now that it's in the red policy area? 12 MS. WAGNER: Yes. So as I discussed we will have 13 to do an additional traffic study for the preliminary plan 14 application. This study will have to follow the new LATR 15 guidelines that follow the growth and infrastructure policy 16 that has been -- that was adopted on January 1, 2021. As 17 part of this adoption and relying -- really trying to focus 18 on pedestrian, bike transit, infrastructure within the 19 county, there are published non-auto mode share goals within 20 this document. 21 And so specifically in our study, in our policy 22 area that the project is located the non-auto mode share goal 23 is 50 percent. So the new study will remove the focus from 24 being the vehicular capacity to really providing quality and 25 up to standard pedestrian bike transit and addressing any</p>	<p style="text-align: right;">359</p> <p>1 HEARING EXAMINER BAUMGARDNER: And Mr. Burdin? 2 MR. BURDIN: Yes, I do. Thank you. 3 Ms. Wagner, you testified, and correct me if I'm 4 mistaken, that the traffic light was not warranted at the 5 current Strathmore -- I mean the current Stillwater Academy 6 entrance intersection; did I get that right? 7 MS. WAGNER: No, that is not correct. I was 8 looking at future traffic volumes that are presented in the 9 LATR traffic study. 10 MR. BURDIN: Okay. All right. Then I think I was 11 mistaken. I don't have any further questions. Thank you. 12 HEARING EXAMINER BAUMGARDNER: Thank you, sir. 13 And thank you Ms. Wagner. I think that is the conclusion of 14 our questions for Ms. Wagner at this time. 15 Ms. Girard, did you have another rebuttal witness? 16 MS. GIRARD: I do. I would like to recall Josh 17 Sloan. 18 HEARING EXAMINER BAUMGARDNER: Mr. Sloan, there 19 you are, sir. It's a new day so we'll get you sworn in 20 again. 21 Do you swear or affirm under the penalties of 22 perjury that the testimony you're about to give is the truth, 23 the whole truth and nothing but the truth? 24 MR. SLOAN: Yes, sir, I do. 25 HEARING EXAMINER BAUMGARDNER: All right. We have</p>

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<p style="text-align: right;">360</p> <p>1 your name and contact information from yesterday. Ms. Girard 2 the witness is yours. 3 MS. GIRARD: Mr. Sloan, you've been present today 4 at the hearing and heard the testimony from the community in 5 opposition, correct? 6 MR. SLOAN: Correct. And you've heard the 7 suggestions that the LMA be approved conditionally and tied 8 to school capacity. Can you please address, I know you 9 touched on this in your direct, but if you can more fully 10 explain the connection of the LMA to adequate public 11 facilities and school capacity? 12 MR. SLOAN: Sure. One part of this is certainly 13 the traffic study which we've been discussing in detail. The 14 other that we can go into a little more detail is the 15 adequacy of the schools. And under the fiscal 2022 a school 16 test, it was last published by park and planning, there are 17 utilization rates that are projected for 2025 and 2026 for 18 the schools that this -- that serve this proposed community. 19 That's Walter Johnson High School, Tilden Middle School, 20 Garrett Park Elementary School. Right now, those are all 21 projected to have utilization rates of 93.2 percent for 22 Walter Johnson, 83.6 for Tilden and 100.6 for Garrett Park 23 Elementary. Under the new growth and infrastructure plan if 24 a school goes over 105 percent capacity there is a 25 utilization premium payment required. We're not there yet,</p>	<p style="text-align: right;">362</p> <p>1 redevelopment parcels, on page 73 for those who want to look 2 it up. And then page 80 to 81 actually laid out a lot 3 more -- not a lot more detail, a couple of paragraphs on 4 recommendations to preserve green area, for environmental 5 protection, wildlife sanctuary, recreation, visual relief 6 they called it. 7 And as staff noted, we are retaining the Academy 8 which was recommended at that time. And we replacing the 9 retirement home, which is now vacant with a residential care 10 facility very similar in use. And the redevelopment of this 11 property is actually allowing us to put about 5.7 acres of 12 land, currently unprotected land into conservation easements, 13 meeting the recommendations for environment protection, 14 creation of habitat providing the trail through it for 15 recreation. And of course, visual relief as they called it, 16 just generally a green amenity for people to see. 17 So as staff found, and I agree with them this does 18 meet the master plan recommendations from 1992. I wanted to 19 make sure that was clearly distinct from the Grosvenor 20 Strathmore Metro area that put a green box around this, but 21 it's not applicable to our findings. 22 MS. GIRARD: Thank you. And you touched on this a 23 little bit a minute ago. But there's been criticism about 24 the provision of open space on the site, particularly with 25 regard to a recreational area with perhaps a playground for</p>
<p style="text-align: right;">361</p> <p>1 but it may be. We'll do a further test at preliminary plan 2 and depending on when approvals happen that test will be 3 required. But we still will be meeting the adequate public 4 facilities test to move forward with this development. 5 MS. GIRARD: And is that true of all three levels 6 of school? 7 MR. SLOAN: Correct. 8 MS. GIRARD: Okay. There was also mentioned 9 earlier today, I guess this morning about the Grosvenor 10 master plan and the identification of this property as green 11 space. Can you address that? 12 MR. SLOAN: Yeah. One thing to clarify and it's 13 confusing because a minor master plan was adopted after, well 14 after, the Grosvenor -- the North Bethesda Garret Park Master 15 Plan which was approved in 1992. 16 A minor master plan for a section that basically 17 surrounds this -- the subject property to the west and the 18 south went through and it did show pictures of this property 19 in those maps, but those maps do not -- it does not -- that 20 master plan does not apply to this property. This property 21 is still under the 1992 North Bethesda Garrett Park Master 22 Plan and no new recommendations were made under that minor 23 master plan for this property. 24 So we are still under the recommendations of the 25 1992 master plan which put this site on its map as of the key</p>	<p style="text-align: right;">363</p> <p>1 future residents. Can you -- and also, there was criticism 2 of the trial and it not being lit in previous testimony of 3 it not being paved. Can you address all of those concerns? 4 MR. SLOAN: Sure. So in a case where we did not 5 have two stream tributaries and we, like some others have 6 spoken on, are concerned about water quality, and 7 environmental quality, and habitat protection and actually 8 enhancement. If this was -- if we didn't have those things 9 we would have a 5 acre central park or something with this 10 same kind of density. But instead we focused our attention 11 on turning those areas about -- over 30 percent of our 12 property into green space for habitat protection rather than 13 an active recreational facility. 14 That said, and I understand we have not presented 15 any detailed pictures of what this will look like yet. We 16 are looking at ways to incorporate active recreational 17 elements in and around those spaces and we have separate 18 spaces, lawn areas, seating areas, garden spaces and things 19 that we're trying to design now, that are going to be much 20 more than just a couple of seating areas with benches that 21 were described by others. 22 So it's a unique situation but we think it's 23 appropriate for the site and better serves the balancing of 24 environmental protection with recreational amenities and the 25 proposed uses. We also had entered, and it's in the record</p>

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<p style="text-align: right;">364</p> <p>1 as an exhibit, the map that shows the local parks that are  2 around and within .5 miles of the property.  3 There is, as noted earlier, Druid Drive  4 Neighborhood Park is about a half a mile from us. But also  5 Garrett Park, Waverly Park and Garrett Park playground.  6 They're both within .5 miles. The streets have sidewalks on  7 them. We would be able to access those streets and sidewalks  8 at the new intersection that will be signalized and then,  9 across the service drive, as folks have brought up. So those  10 other facilities are nearby.  11 With regard to the trail, because it is in a  12 protected area staff requires, thus far, that it not be paved  13 and that no lighting or structural elements be within that  14 open space, and so we designed it as such, and not put any  15 structures such as lighting or paving in there. We can  16 continue to look at that but we intend this trail to be open  17 during daylight hours, not used for -- at nighttime and not  18 encourage use at nighttime with lighting of the facility.  19 And importantly, staff has agreed to put this into  20 a category 2 easement, whereas we won't have structures in  21 there and impervious area, but we will be able to maintain  22 lower plantings and even some clipped lawn areas. And we'll  23 design our planting and layout of the grading and whatnot for  24 visibility under what are called CPTED principles, that's  25 crime prevention through environmental design. It's the way</p>	<p style="text-align: right;">366</p> <p>1 filtration media with the plantings in it and then it slowly  2 discharges over time.  3 We've also regraded the site so that about 1-1/2  4 acres of current runoff that goes straight to Strathmore  5 Avenue, no longer will go to Strathmore Avenue and that's  6 causing some of the flooding issues, and then runoff of water  7 from the street directly into the stream. We will be able to  8 capture that. All of that is important for filtering out  9 pollutants, for reducing sediment, which is a problem and  10 water quality quite often.  11 And also, reducing the heat of the water that  12 actually gets to the stream. All things are benefits for  13 water quality that are not there today. So impervious  14 increases are exactly our focus of stormwater retention  15 areas, and that is why you will see a few bioretention areas  16 at the low point of our site, which is in the swoop in Street  17 C in the southwest of that street. And then lots of other  18 little areas that will collect rooftops and street water, and  19 alley runoff before it gets to the stream.  20 So water quality should actually be improving and  21 that is our intent when we get to the stage 1, stage 2, and  22 then stage 3 permitting documents that we'll going through  23 over the next year or so.  24 MS. GIRARD: And so you addressed quality,  25 quantity as well? I mean, is the quantity of water going to</p>
<p style="text-align: right;">365</p> <p>1 you lay out plantings, sight lines, grading, so that you can  2 see large areas and we can have so called eyes on. Usually,  3 it's eyes on the street, but this is eyes on the trail from  4 back yards, from adjacent streets so that it will be safe  5 during those daylight hours, when it's being used.  6 MS. GIRARD: Thank you. And you touched a little  7 bit on the environment. There was concerns about the  8 increase in impervious area suggest -- or proposed in this  9 application creating detrimental drainage and run off to  10 properties downstream. Can you please address that as well?  11 MR. SLOAN: Sure. Yeah, that's also a concern of  12 ours and something that we have worked into the design. And  13 stormwater management is typical to get your head around when  14 people are mostly used to seeing large ponds that collect  15 water and things like that. Those aren't used anymore. We  16 use a lot of small, they're called micro bioretention  17 planters spread out throughout the site.  18 And we use other things like modular wetlands,  19 which collect water and feed the roots of wetland type  20 species. We spread those out throughout the site and the  21 goal of current state regulations is to treat the runoff that  22 leaves your site, well to treat the runoff before it leaves  23 your site so that that runoff would be qualitatively similar  24 to what are called woods in good condition. So we capture  25 this 1.8 plus inches of rainwater. It goes through a</p>	<p style="text-align: right;">367</p> <p>1 be downstream?  2 MR. SLOAN: So quantity is an odd thing that, not  3 being an engineer, I'm still trying to get my head around.  4 Because these facilities are meant more for quality control  5 and improving water, but they also do meet a certain quality  6 threshold that -- quantity threshold, that 1.8 inches is our  7 target and we're exceeding that in our model so far.  8 So a big piece of how these work is that they  9 actually capture and slow down runoff so that downstream  10 flooding is actually -- there's this delay of the water  11 getting to the stream as it goes through this filtration  12 system and slowly enters the streamflow. So you actually get  13 a decrease in your concentrated flow of water during rain  14 events. So quantity, we certainly will be capturing some  15 water that will never get to the stream now, but other water  16 that will get to the stream will get there after the peak  17 even of the rainstorm typically.  18 So we are addressing quantity as well, and will be  19 specifically focused on the quantity of water that's hitting  20 roads. That's our first goal, clean that water up and then  21 rooftops. That's our second, and then third, of course,  22 whatever sheet flow we get from landscaped areas and things  23 is our third priority area for capturing.  24 MS. GIRARD: Thank you. We also had discussion  25 both in your direct and then there was testimony today</p>

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<p>368</p> <p>1 regarding the -- what's referred to as the buffer area in 2 Strathmore Avenue. Can you -- and I submitted just before 3 lunchtime, I circulated to everyone (inaudible) participated 4 the exhibits which hopefully no one has had problems 5 accessing, but I think Mr. Sloan's going to be referring to 6 those in his testimony.</p> <p>7 HEARING EXAMINER BAUMGARDNER: So for Mr. Shaffer 8 and Mr. Burdin, have you had the opportunity to at least look 9 at that document, or those two documents?</p> <p>10 MR. SHAFFER: I've looked at the two PDFs and they 11 appear to be drawings.</p> <p>12 MR. BURDIN: Yes, I did.</p> <p>13 HEARING EXAMINER BAUMGARDNER: Understood. So Ms. 14 Girard, if you're going to be asking Mr. Sloan questions 15 about either one of them we'll just do a very detailed 16 description of what we're going to be looking at.</p> <p>17 MS. GIRARD: Okay. Go ahead, Josh. Are you going 18 to share your screen with them?</p> <p>19 MR. SLOAN: If that's acceptable, yes. I'll share 20 my screen.</p> <p>21 HEARING EXAMINER BAUMGARDNER: That's fine.</p> <p>22 MR. SLOAN: Okay. I want to keep Teams up so I 23 can see folks. Am I sharing?</p> <p>24 HEARING EXAMINER BAUMGARDNER: Yes.</p> <p>25 MR. SLOAN: You see it. So what I'm showing now</p>	<p>370</p> <p>1 paving, and a maximum depth of 3 feet.</p> <p>2 We've also been required to create a green space 3 between the curb and the shared use path that was required on 4 the southbound. So we have eight feet of green space. We 5 have the 10 foot shared use path and then we have our 6 property line and what's beyond that. So some of the 7 shoulder on the southbound will actually be -- will actually 8 revert to green space. The reason we've got this -- that we 9 can't move all of the lanes to the south is because we have 10 to keep the centerline and the flow movements of these two 11 through lanes as close to straight as we can across the 12 intersection so we don't have a dangerous swerve or, you 13 know, kind of zig zag.</p> <p>14 And so we've split the difference between the two 15 sides. We've got about a four foot offset on the south side 16 and a three foot offset on the north side to minimize the 17 impact to the north. So that kind of lays out the 18 configuration and provides an overview for those most 19 concerned with this median buffer area. And the bus stop 20 itself will shift two feet. So right now there's a sidewalk, 21 it will shift two feet to the north, which is about to where 22 the -- there's a utility pole there right now and it's a lawn 23 area. So no impact to the trees.</p> <p>24 I don't know exhibit number we're going to be 25 giving this. That's a description of that.</p>
<p>369</p> <p>1 is what I've titled conceptual right-of-way paving 2 modifications. And this was something that we put together 3 over the floating zone plan that in, hopefully, a more 4 descriptive format can show people what our initial design 5 working with MCDOT staff in particular for this left turn 6 lane, how it will impact -- the left turn lane for westbound 7 movement into Street -- into the site via Street A, where the 8 proposes signal is.</p> <p>9 So what we're doing is right now, there are two 10 lanes, one eastbound and one westbound. And we understand 11 that there's an undersized shoulder on the north side that's 12 kind of used as a third lane for when people are accessing 13 the school, and a police officer is directing traffic there. 14 And then, there is a regularly sized shoulder on the south 15 side of Strathmore Avenue which kind of bumps in and out, 16 strangely.</p> <p>17 And what we've been asked to do is -- for our 18 frontage create a closed section of road which means putting 19 curbs on it and turning those lanes east of Street A into a 20 through westbound movement, a left turn movement, and a 21 through eastbound movement. That requires a feathering of 22 the pavement on the north side from zero feet where it ties 23 into existing pavement to zero feet with a little bow that is 24 a maximum of three feet. That's over about a 235 foot 25 distance. It's about, you know, less than 500 square feet of</p>	<p>371</p> <p>1 HEARING EXAMINER BAUMGARDNER: Okay.</p> <p>2 MR. SLOAN: I don't know, Erin, if I missed 3 anything on that piece.</p> <p>4 MS. GIRARD: No, I think that was good.</p> <p>5 MR. SLOAN: The second exhibit that we produced is 6 a little bit closer view of the bus stop. With our plan just 7 simply overlay. Our plan line work is red, overlaid onto an 8 aerial view, much closer to the bus stop. And then, it has 9 two images, one looking east and one looking west down the 10 street with the approximate area of what would become paved 11 for this through lane.</p> <p>12 And what we wanted to point out is that especially 13 north of the -- well, not north. Sorry. East of the bus 14 stop that area is entirely in grass right now and it is an 15 area between utility poles and the existing shoulder. We'll 16 have to move some signs and coordinate some coordination with 17 SHA. But there are no trees significantly impacted by that 18 area. And then the view looking west shows the bus stop area 19 and where it will be pushing two feet back along that between 20 the utility pole and the existing curb now.</p> <p>21 There is a large Plane tree that we will minimize 22 root disturbance on around that area and maintain. And also, 23 the larger shrubs around there. It's been my understanding 24 from the beginning and the direction that the -- what I've 25 heard the Applicants say in public and giving us direction on</p>

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<p>372</p> <p>1 is that, it is our aim not to impact any of this significant 2 vegetation in any way and that was the promise to the 3 community. And that if SHA allows we'll even enhance that 4 planting in that area. 5 You know, that said, this is SHA right-of-way. 6 SHA right-of-way runs from our property line on the south all 7 the way to actually behind the sidewalk that's in front of 8 the units to the north of Strathmore Avenue. So that entire 9 service road and the trees and the sidewalk is, along with 10 the median, is all within SHA right-of-way and their access 11 permit will determine exactly how we make these improvements. 12 And whether or not we're allowed to enhance the buffer and 13 add plantings. 14 And I think the only last thing I want to say is 15 that we want to make sure people are cognizant of safety. 16 While the plantings are nice as a visual screen, and a 17 psychological screen, they don't reduce noise, technically, 18 although psychologically it appears that way. But we also 19 want to maintain visibility. There is a sidewalk there that 20 runs through to the service road and we don't want people -- 21 areas at a bus stop where people can hide or where people 22 can't be seen by traffic. So we want to keep that in mind 23 and just put that out there for when we're discussing the 24 details of the design and planting enhancements around the 25 bus stop in the future.</p>	<p>374</p> <p>1 MR. SLOAN: Sure. Our original plan had one 2 entrance, our primary entrance at Street A and all other 3 circulation was internal with the service drive being 4 separate and that remains where the existing access point is 5 for St. Angela right now. 6 Working with staff they required a second entrance 7 to disperse traffic and give different options for people to 8 access Strathmore Avenue, both pedestrians and drivers. So 9 we took that requirement and worked on maintaining the 10 primary entrance as our focal point for the community where 11 it will sort all three different uses, where it will serve 12 for fire and emergency access, and where it is the most safe, 13 effective, and efficient for our primary point to get into 14 and around the site. 15 The secondary access, we worked with staff to 16 align it with Stillwater and keep it at a size that would not 17 impact any environmental areas, but otherwise we were working 18 under a requirement of agency review for that. We think it 19 does provide some benefits. It does get us closer to the 20 Metro access at Strathmore Avenue that way and some other 21 elements. But I think from a land planning perspective it 22 was really driven by that dispersal of traffic required by 23 staff. 24 MS. GIRARD: Thank you. That's all I had for Mr. 25 Sloan.</p>
<p>373</p> <p>1 So I'm hoping that will allay some of the concerns 2 and make sure everyone understands our intent for this area. 3 MS. GIRARD: And just one point of clarification, 4 Mr. Sloan, and you may have already said this, but so the 5 entirety of the median area is actually within the right-of- 6 way for Strathmore Avenue? 7 MR. SLOAN: The entirety of the median area, the 8 service road to the north, the lawn panel and the sidewalk to 9 the north are all SHA right-of-way. 10 MS. GIRARD: Thank you. I guess with that I would 11 move the admission of these two exhibits into the record. 12 HEARING EXAMINER BAUMGARDNER: Is there any 13 objection to the admission of what will become most likely, 14 Exhibit 85 and Exhibit 86? They are the two diagrams that 15 Mr. Sloan has just testified about. 16 MR. BURDIN: No. 17 MR. SHAFFER: No, I don't have any. 18 HEARING EXAMINER BAUMGARDNER: Okay. Then once 19 they get a number they will come into the record at the 20 conclusion of the hearing. 21 Were you done examining the witness? 22 MS. GIRARD: Just one last point and Ms. Wagner 23 hit on this as well, Mr. Sloan, but just from a land planning 24 standpoint, if you could please address the comment about 25 consolidation of the entrances?</p>	<p>375</p> <p>1 HEARING EXAMINER BAUMGARDNER: Thank you. Mr. 2 Shaffer, any questions for Mr. Sloan, again, limiting those 3 questions to his testimony on rebuttal? 4 MR. SHAFFER: Just quickly. The bus stop you 5 referred to will be at the corner of Strathmore and the 6 entrance to the -- the main entrance to the Academy, true? 7 MR. SLOAN: I'm sorry, I only caught half of that. 8 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, can 9 you repeat your question? You're a little bit -- it's 10 starting to fade out. 11 MR. SHAFFER: Okay. You said that there would be 12 a new bus stop installed at the entrance to the Academy on 13 both sides of the road; is that correct? 14 MR. SLOAN: There are current bus stops on both 15 sides of the road near the entrance to the Academy. Whether 16 they shift a little east or west along Strathmore will be 17 determined when the intersection is designed. But they will 18 be around that area, yes. 19 MR. SHAFFER: As I understand from one of your 20 colleague's previous testimony those would be fully 21 (inaudible). 22 HEARING EXAMINER BAUMGARDNER: You had just asked 23 a question to Mr. Sloan regarding the relocation of the bus 24 stops on the north and the south sides of Strathmore Avenue 25 and Mr. Sloan was about to answer your question. So I will</p>

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<p>376</p> <p>1 let him complete his answer and we'll see if that does the 2 trick.</p> <p>3 MR. SLOAN: I think that I heard before it cutting 4 off, the second part of the question was whether or not those 5 would be ADA accessible, and that is the intent that the 6 redesign would meet ADA standards.</p> <p>7 MR. SHAFFER: And what's the width of the sidewalk 8 leading up to the bus stop?</p> <p>9 MR. SLOAN: The current sidewalk, I didn't measure 10 that, but we typically have them at a four foot minimum, but 11 we tend to like them closer to five or six feet.</p> <p>12 MR. SHAFFER: Okay. But they will at least be a 13 36 inch passage to the --</p> <p>14 MR. SLOAN: Oh, yes.</p> <p>15 MR. SHAFFER: -- entrance to the bus shelter?</p> <p>16 MR. SLOAN: Yes.</p> <p>17 MR. SHAFFER: Okay. I have no further questions.</p> <p>18 HEARING EXAMINER BAUMGARDNER: Thank you, sir. 19 And Mr. Burdin, any questions for Mr. Sloan based upon his 20 testimony?</p> <p>21 MR. BURDIN: Yes, I do.</p> <p>22 HEARING EXAMINER BAUMGARDNER: Sure.</p> <p>23 MR. BURDIN: Mr. Sloan, how long is the proposed 24 left turn lane on your diagram?</p> <p>25 MR. SLOAN: Our conceptual layout is -- I don't</p>	<p>378</p> <p>1 MR. BURDIN: Yeah, sure.</p> <p>2 MR. SLOAN: -- but it's what someone like a 3 computer -- a not very computer savvy person can use. So 4 about three feet.</p> <p>5 MR. BURDIN: So there's a thin, what we'll call a 6 thin shoulder, not a full-sized shoulder, but (inaudible). 7 And that provides some safety protection from westbound cars 8 on Strathmore for the people that are standing at that bus 9 stop; is that fair to say?</p> <p>10 MR. SLOAN: Yes, except when they're doing the 11 through traffic, but yes.</p> <p>12 MR. BURDIN: Right. And in the schematic for what 13 you're proposing to do that thin shoulder doesn't exist at 14 this point; is that correct?</p> <p>15 MR. SLOAN: After the light this through lane 16 would transition and along this area we would be right up 17 against the sidewalk there.</p> <p>18 MR. BURDIN: Okay. So if later the SHA or some 19 other government entity decided that the bus stop platform 20 had to be bigger, or further away from the road, is that a 21 possibility in your experience?</p> <p>22 MR. SLOAN: It is. Is it okay if I bring up the 23 street view?</p> <p>24 MR. BURDIN: Sure.</p> <p>25 MR. SLOAN: You can see in the bottom left</p>
<p>377</p> <p>1 remember. I do know that we're going to have to go through 2 another -- well, a very detailed round of design and queuing 3 analysis through SHA for the final design. Right now, we're 4 at about 186 feet.</p> <p>5 MR. BURDIN: Is that -- so is that what is 6 reflected on that exhibit?</p> <p>7 MR. SLOAN: That exhibit shows from the striped 8 line on the east side and it becomes a solid line and stops 9 before Street A; that length is about 186 feet.</p> <p>10 MR. BURDIN: Okay. Thank you. I asked because I 11 thought at one point there was talk of a 50 foot lane. I 12 just wanted to make sure if it was that or the longer one. 13 Is it possible to put up that first exhibit?</p> <p>14 MR. SLOAN: I can bring it back up. You can see, 15 I just measured the length there.</p> <p>16 MR. BURDIN: Okay. So currently, there is a 17 shoulder between the road and the bus stop, what I'll call 18 the platform, the cement part of the bus stop; is that right?</p> <p>19 MR. SLOAN: Right now, on the north side or the 20 south side?</p> <p>21 MR. BURDIN: On the north side.</p> <p>22 MR. SLOAN: On the north side, not. The lane -- 23 well, there's about -- it looks like this is the edge of the 24 current lane; about three feet and change roughly. You know, 25 this is not a super accurate program --</p>	<p>379</p> <p>1 photograph this is a street view looking east, the area 2 that's behind the bus stop now is entirely lawn area and 3 there is this little kind of tag, this bump out where 4 typically a bench or something would go. But we could do 5 something in that area without impacting any existing 6 vegetation and provide a little more space between the street 7 and the actual bus stop location.</p> <p>8 MR. BURDIN: Okay. So you would -- but under that 9 scenario you would be putting cement where there is currently 10 grass; is that right?</p> <p>11 MR. SLOAN: Yep.</p> <p>12 MR. BURDIN: Okay. I just -- the people that live 13 on that street want to know the full story so I appreciate 14 that. Thank you.</p> <p>15 MR. SLOAN: Sure.</p> <p>16 MR. BURDIN: That's all I have.</p> <p>17 HEARING EXAMINER BAUMGARDNER: Thank you, sir. I 18 see that Ms. Lide has her virtual hand raised. I can't tell 19 if that's with a question or from before?</p> <p>20 MS. LIDE: No, it's with a question.</p> <p>21 HEARING EXAMINER BAUMGARDNER: Okay. We're kind 22 of past that point. But what was your question, ma'am?</p> <p>23 MS. LIDE: My question is simply -- I really want 24 to understand why we were told that there would be no 25 encroachment, no carving into the green buffer zone.</p>

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<p style="text-align: right;">380</p> <p>1 HEARING EXAMINER BAUMGARDNER: And I have heard 2 that question before, so we're not -- I don't think it's 3 relevant for the rebuttal response at this time, if that 4 makes sense. Because I can't go back in time and know what 5 was said and what wasn't. We can only adjudicate what's in 6 front of us right now. 7 MS. LIDE: I understand that, but I'd like to go 8 on the record and say I feel we were misled and we were told 9 something other than what was materially presented yesterday. 10 HEARING EXAMINER BAUMGARDNER: Okay. I 11 understand. 12 All right. Ms. Girard, any other rebuttal at this 13 time? 14 MS. GIRARD: I would just note, Josh, I -- Mr. 15 Sloan, I thought that you addressed that question to some 16 extent as far as what your understanding was regarding 17 representations to the community? 18 MR. SLOAN: I tried to. It was certainly our 19 direction in everything that I heard in public was that we 20 did not want to remove any large vegetation, have any impacts 21 to trees and that buffering plantings. But not with respect 22 to lawn and sidewalks and things that are under State Highway 23 control. 24 MS. GIRARD: That's all I have for Mr. Sloan. 25 HEARING EXAMINER BAUMGARDNER: Thank you, Mr.</p>	<p style="text-align: right;">382</p> <p>1 understand that people have their own perceptions and we all 2 feel that way. 3 But there is a distinction between people's 4 perceptions as to how they will be impacted and how to 5 interpret information and a different reality that's based 6 more in facts and studies and standards. And that, quite 7 frankly, is why we have experts. I'm not going to pretend 8 that I understand every aspect of every traffic study that 9 I'm associated with in my cases. They are very complicated 10 and that's why people have to become experts in traffic 11 engineering and transportation planning. The same with 12 stormwater. The same with land use. I mean, these are very 13 specialized areas of expertise that go into a level of detail 14 that most lay people are not privy to or really can usually 15 understand. 16 So I would just note that while there has been a 17 great deal of testimony today regarding people's feelings 18 about what can happen, there really, in the evidence of 19 record is no substantial expert report analysis that 20 contravenes anything that the Applicant's experts have 21 presented. And it's not just the Applicants' experts who 22 have put forth these case -- the case materials and I believe 23 have demonstrated that we meet all the standards for 24 approval. 25 There is a very rigorous review that this needs to</p>
<p style="text-align: right;">381</p> <p>1 Sloan. Any other witnesses, Ms. Girard? 2 MS. GIRARD: No, that concludes our case. 3 HEARING EXAMINER BAUMGARDNER: All right. So what 4 we will do now is give the parties the opportunity to provide 5 a closing argument. You do not have to avail yourself of 6 this, but you're certainly welcome to. We'll try to keep it 7 as clear and concise as possible. (inaudible) for a long 8 time at this point but we certainly welcome a summary, a 9 summation of the arguments involved. And if the Applicant 10 can give particular attention to the conditions that were 11 offered, in addition to those that we already have in the 12 record from the planning board submittal. 13 So with that we'll open with Ms. Girard. 14 MS. GIRARD: Thank you. And I will try to hit all 15 the conditions as well, and I think they're more semantically 16 because I think the same ones came up again and again. 17 So I really think that this is -- it's not a 18 typical, in my -- I've been practicing for 21 years and it's 19 not a typical where people have a perception of their 20 neighborhood. I think that we all do, and a perception is to 21 what's the existing conditions are, what traffic in the 22 future will be, what kind of impact a new building will have 23 on us. And I think we respect that. And I don't want to, 24 you know, any of my cross-examination obviously I have to get 25 that on the record, but I don't mean to imply that I don't</p>	<p style="text-align: right;">383</p> <p>1 go through. It first goes through technical staff. As Ms. 2 Wagner mentioned there's staff devoted to traffic who 3 understand all of that. There's experts in stormwater at the 4 department of permitting services. There's experts -- 5 there's actually three levels of experts for traffic. There 6 is the State Highway Administration, the Montgomery County 7 Department of Transportation, and park and planning staff has 8 its own transportation people. 9 There's environment staff at park and planning, 10 there's environment staff at the department of permitting 11 services. So this has undergone an extensive review by all 12 of these experts and they concluded in their staff report 13 that the local map amendment as presented to you should be 14 approved. 15 I would note that many of the, as I did in my 16 opening statement, many of the issues that have been raised 17 during these proceedings were also raise in front of the 18 planning board who, as you have heard, planning board staff 19 met with many of the participants in this hearing, heard 20 their concerns, and addressed them in a good amount of detail 21 in section 5 of Exhibit 62, which is the staff report. 22 The same concerns have carried through to this 23 proceeding, the first of which is the traffic study. And I 24 do think that Ms. Wagner has laid out very methodically how 25 the analysis was performed, what the numbers mean to the best</p>

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<p style="text-align: right;">384</p> <p>1 that we can all understand them. Why the Metro ridership  2 numbers were what they were, what they will be in the future  3 with the movement to the red policy area. She's explained to  4 the traffic lights. I understand that people come from a  5 layperson's perspective may not think that the proposed  6 solutions will do everything that they say. But at that  7 point, I think there's no expert testimony to say that they  8 won't. There's three agencies and the transportation expert  9 for the Applicants that say that it will work. So I think  10 that the weight of the evidence certainly is there to approve  11 the traffic study as proposed and find that it complies with  12 the standards and is sufficient to allow for approval of the  13 local map amendment.  14 As far as pedestrian connections, which was  15 another big thing, a connection particularly along Strathmore  16 Avenue, which is within our control. And I understand the  17 frustration both on the stormwater side and on the pedestrian  18 connection side that we've explained that some of the -- and  19 open space, some of this will not be designed until further  20 in the process. And really, that's frankly there's cost and  21 time associated with certain levels of design.  22 So the process is just set up that you don't have  23 to go to full design of a playground that you may not ever be  24 approved to build. And that's just kind of the reality of  25 how the process is laid out. So while we understand the</p>	<p style="text-align: right;">386</p> <p>1 certainly our consultants and the planning board and planning  2 staff found that that was the appropriate place to focus  3 energies.  4 Getting back to -- I apologize for jumping around.  5 The pedestrian connections. We've talked a lot about  6 Tuckerman. You heard the testimony from Ms. Prebble. Even  7 if it were feasible from an environmental standpoint they  8 have a real concern and, I think, a valid concern about  9 directing pedestrians and traffic through the school. And I  10 think that although there's a perception that because they're  11 the seller they're part of this application, that is not  12 true. And they have made their opinion on that very clear.  13 As far as pedestrian connections down the street  14 to Garrett Park Elementary School, as was testified to people  15 are not sure what is and is not in the right-of-way. I  16 believe Mr. Lester and perhaps, Mr. Sloan both addressed the  17 efforts that the Applicants are undertaking to connect the  18 sidewalk at least to the east to the existing crosswalk and  19 bus stop to provide more connectivity. This will all be  20 looked at more at a preliminary plan level stage to see what  21 is possible and what is not. And under the growth policy,  22 certainly pedestrian connectivity is going to be a big issue  23 as noted by Ms. Wagner.  24 As far as adequate public facilities as Mr. Sloan  25 noted at -- well, one as he noted is traffic. A big part of</p>
<p style="text-align: right;">385</p> <p>1 frustrations that the open space -- you want to see exactly  2 what the equipment will look like. I think Mr. Sloan did  3 address that and the level of detail and care that will be  4 put into that if we move onto a future process.  5 As far as the size of the open space, some of the  6 conditions that were requested that the open space  7 playgrounds be large and appropriate. You know, these are  8 subjective words in that, as I noted with the council member  9 from Garrett Park there are standards in the zoning ordinance  10 that dictate how much open space should be provided. To say,  11 well, I don't like those, I think there should be more,  12 that's a completely subjective standard and I think it would  13 set a bad precedent to say, well, subjectively we think this  14 amount would be here and someplace else -- we understand that  15 the code says 10 percent, but we think 20 percent here and 30  16 percent there, it just creates an unmanageable situation.  17 And as Mr. Sloan identified one of the focus --  18 areas of focus here was the environment. And so there is 5.7  19 acres that is being preserved. And I think everyone has a  20 tendency to discount that. It's around the ring of the  21 development, but it is part of that development and that's a  22 substantial chunk of land that is going to be devoted to  23 preservation of the environment, the natural surface trail  24 that will allow people to enjoy the environment and that does  25 shrink some of the internal spaces, but I think that</p>	<p style="text-align: right;">387</p> <p>1 that is traffic. I've already addressed that. The other is  2 schools. With the adoption of the growth policy last  3 November, by the Montgomery county council, they essentially  4 removed hard moratorium and put in their place these UPS, or  5 utilization payments that require when you get at certain  6 capacity thresholds it triggers that extra payment.  7 I understand that Mr. Edwards and others may not  8 like that that's the direction that the County took. They  9 think school overcrowding should be addressed differently,  10 but as I noted in my cross-examination, that was an issue  11 that needed to be taken up with the county council in regard  12 to the larger growth policy. And it is not appropriate to  13 apply different standards -- standards different than the  14 county council just adopted in November to this case. It  15 would be subjective and it would set a dangerous precedent.  16 As far as Mr. Burdin's two requests, the westbound  17 turn lane and signal being required, I think that you've  18 heard the Applicant loud and clear say they want to do that.  19 They understand that the SHA so far has said yes to it. We  20 cannot control a state agency. So I think we would be  21 amenable to a condition that we'll make every effort -- you  22 know, we'll make best efforts to get SHA to approve.  23 Certainly the Applicants will bear the cost of  24 constructing the turn lane and signal as approved by SHA. I  25 don't know exactly what that wording would be, but certainly</p>

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<p style="text-align: right;">388</p> <p>1 our commitment has never wavered that we would do it. But I</p> <p>2 think there needs to be some kind of caveat there that</p> <p>3 recognizes that SHA does get the final say and they often</p> <p>4 don't give that final say until a future access permit -- I</p> <p>5 don't know why they do it that way. Again, we can't control</p> <p>6 it.</p> <p>7 As far as the future obligation to study again, I</p> <p>8 understand, and this request comes up in a number of cases.</p> <p>9 I understand the desire to do that. There's a number of</p> <p>10 complications with that kind of request. If you were to do</p> <p>11 it at build out to really test the traffic, at that point in</p> <p>12 time the homes will have been sold and turned over to an HOA.</p> <p>13 And I don't -- you know, they -- I don't think that HOA would</p> <p>14 be very happy to have to conduct a study and then to make any</p> <p>15 improvements that would be required.</p> <p>16 Although, I would note that as Ms. Wagner said</p> <p>17 time and again, our assumptions are extremely conservative</p> <p>18 and they're based on hard data that is dictated to us by the</p> <p>19 county and the country as far as ITEA rates. I mean, this is</p> <p>20 not something that the county takes lightly to project</p> <p>21 traffic generation.</p> <p>22 I can't tell you that I have at my fingertips data</p> <p>23 supporting that they work, but certainly they sure do spend a</p> <p>24 lot of time looking at it and I think that the county process</p> <p>25 is set up such that they have set forth detailed guidelines</p>	<p style="text-align: right;">390</p> <p>1 findings for approval contained in 59.7.2.1.e of the zoning</p> <p>2 ordinance have been met and that the local map amendment as</p> <p>3 submitted with the -- or the recent version of it with the</p> <p>4 conditions recommended by the planning board and as I said,</p> <p>5 with maybe perhaps the additional condition of the westbound</p> <p>6 turn lane and signal requirement, subject to SHA approval, is</p> <p>7 warranted. Thank you.</p> <p>8 HEARING EXAMINER BAUMGARDNER: Thank you, Ms.</p> <p>9 Girard.</p> <p>10 Mr. Shaffer, any closing arguments, sir?</p> <p>11 MR. SHAFFER: (inaudible). Yes, I'll make a few</p> <p>12 comments.</p> <p>13 HEARING EXAMINER BAUMGARDNER: All right.</p> <p>14 MR. SHAFFER: In contrast to Ms. Girard's 21 years</p> <p>15 of practice, I'm almost up to 40 now. And in those years in</p> <p>16 which I've done mostly class action litigation, I've rarely</p> <p>17 had a case where there wasn't an expert witness opposed by an</p> <p>18 equally qualified and equally of the opinion to the contrary</p> <p>19 expert witness. So I take what the Applicant has given with</p> <p>20 a grain of salt.</p> <p>21 You know, as a community association we've done</p> <p>22 our best as lay people, apparently fairly well-educated lay</p> <p>23 people, to come up with our best analysis of how we feel</p> <p>24 based upon our knowledge of the community this is going to</p> <p>25 impact our operations.</p>
<p style="text-align: right;">389</p> <p>1 as to how traffic studies should be conducted. We have</p> <p>2 followed that. We anticipate that the -- we have made it</p> <p>3 extra conservative and we anticipate that that will result in</p> <p>4 very accurate information at the end of the day. But I don't</p> <p>5 think it's fair, again, I think that would set a dangerous</p> <p>6 precedent to add an extra condition that says that at some</p> <p>7 indefinite point in the future you need to go out and retest</p> <p>8 and then put further improvements in place.</p> <p>9 On that point, I would also note with the movement</p> <p>10 to the new policy area with a red policy area I don't know</p> <p>11 how that study would be conducted or what it would look like</p> <p>12 because as Ms. Wagner noted in the red policy area when a</p> <p>13 future traffic analysis the emphasis will be on pedestrians</p> <p>14 and bicyclists and non-auto modes of travel. And that will</p> <p>15 be done as part of the preliminary plan process. So I think</p> <p>16 the assumption that it would -- you would count cars in the</p> <p>17 future would be contrary to what the governing -- the</p> <p>18 currently governing growth policy dictates for the property.</p> <p>19 So in conclusion I think based on everything in</p> <p>20 the record, the reviews by the county agencies, the staff</p> <p>21 report in favor, the planning board recommendation in favor,</p> <p>22 all of the expert testimony that we have presented yesterday</p> <p>23 and today the weight of the evidence is definitely in support</p> <p>24 of the application.</p> <p>25 And we believe we've demonstrated that all</p>	<p style="text-align: right;">391</p> <p>1 But I ask that the Hearing Examiner take that fact</p> <p>2 into account that experts often disagree and -- I would</p> <p>3 almost always disagree.</p> <p>4 I think the starting point here is whether this</p> <p>5 application is wholly suited to the purpose of transit only</p> <p>6 or development because even though some testimony has been</p> <p>7 given about how conservative that number is for transit use,</p> <p>8 instead they have put in writing that transit use is going to</p> <p>9 be minimal. That doesn't seem to be the kind of joint</p> <p>10 development project that Metro has been envisioning along the</p> <p>11 Red line and down into PG County.</p> <p>12 That we simply don't have a transit oriented</p> <p>13 community here. It looks like from what the descriptions it</p> <p>14 will be a nicely designed and pretty community. And for that</p> <p>15 I think we congratulate them. But we do differ on some major</p> <p>16 aspects. And the one aspect that I found most troubling</p> <p>17 about the entire presentation was the lack of any</p> <p>18 consideration of the future.</p> <p>19 Although the traffic expert acknowledge that they</p> <p>20 took into account all developments that were currently</p> <p>21 approved in the area in their numbers, the stormwater</p> <p>22 drainage analysis simply stated it did not consider climate</p> <p>23 change at all. He was simply measuring the effect of the</p> <p>24 stormwater drainage plan on what would happen today. This</p> <p>25 project isn't even going to be built today. Two years from</p>

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<p style="text-align: right;">392</p> <p>1 now who knows how much water we'll be getting, 10 years from 2 now, 30, 40, 50. 3 This is both international, national and state and 4 county policy to consider climate change in all agency 5 considerations. It's a Biden executive order and I notice 6 that Governor Hogan was one of the early ones to join with 7 the climate change movement. I don't feel that this study is 8 even appropriate to be introduced in the evidence except for 9 what it is, a measure of stormwater impact today. That 10 doesn't project the impacts of this project in the future on 11 the environment, the tributary that runs into Rock Creek 12 Park, their estimate effect on Rock Creek Park 40 years from 13 now or any of these considerations. And I think this is a 14 major substantive fault. 15 Putting aside that, I think the -- assuming that 16 those considerations are taken into account in some way, 17 shape or form, or a condition that those conditions be taken 18 into account be added to this any findings that you might 19 make. The thing really is just one big old hill. And it's 20 all coming down towards us at the bottom. 21 I would -- I won't go over again the 22 considerations that we asked for that Kip Edwards testified 23 to. They're in the record now and they've been rebutted by 24 Ms. Girard, so I won't go through those again. 25 I think our bottom line is we accept this</p>	<p style="text-align: right;">394</p> <p>1 approved under R60, under some kind of zoning variance. And 2 so I recognize that the current zoning allows some 3 development, but the question is what kind of development. 4 And if the rezoning is denied I'm confident these Applicants 5 could do something -- do some redesigning and propose -- and 6 build something within the R60 zoning that currently exists. 7 The transit issue, obviously, many times the point 8 has been made about the traffic study, asserting the use of 9 transit would be minimal. I understand they reached that 10 conclusion based on parameters and they were required to use. 11 But the report did not question this conclusion or present 12 evidence that the use would actually be more. You would 13 think if they had it, they would have presented it. 14 And despite Ms. Girard's very good point that my 15 observations about Metro views from Symphony Park all 16 occurred during COVID, not something that had occurred to me, 17 my opinion still is that the Metro views from Symphony Park 18 even under normal circumstances would at least be relatively 19 minimal. 20 Obviously, the big issue is the traffic and 21 increased traffic adding, I think 125 homes as proposed and a 22 large residential care facility will undisputedly add cars to 23 Strathmore Avenue. Yet somehow, even with this added traffic 24 the traffic consultant concludes that two adjustments to the 25 layout of the roads will virtually eliminate about 440</p>
<p style="text-align: right;">393</p> <p>1 development, it's a nice development, it looks like it's 2 multigenerational, it has a lot of good qualities to it for 3 the property on which it's situated. But has it been 4 designed appropriately and I don't think that questions been 5 answered yet by what we've seen before us. 6 Thank you. 7 HEARING EXAMINER BAUMGARDNER: Thank you, sir. 8 And having cut my teeth in insurance defense litigation I can 9 appreciate your note about expert witnesses at the beginning 10 of your closing argument. 11 Mr. Burdin, any closing argument from you, sir? 12 MR. BURDIN: Yes, thank you. First of all, I 13 would like to say that I appreciate the manner that you have 14 run this hearing. I think it's been smooth and fair and I do 15 appreciate that. 16 HEARING EXAMINER BAUMGARDNER: Thank you. 17 MR. BURDIN: Now, the residents of the surrounding 18 neighborhoods, including myself, are the ones that will 19 suffer the consequences of the zoning change and approval of 20 the project. It would construct more, and denser homes than 21 would be allowed under the current R60 zoning. The proposed 22 project also would include the Brandywine 150 bed residential 23 facility with up to 35 employees at the facility at the peak 24 time. 25 My understanding is that that facility might be</p>	<p style="text-align: right;">395</p> <p>1 seconds of delay that currently exists under the existing 2 conditions. 3 I think the consultant admitted that eliminating 4 the Stillwater offsets, which is one of the two on the ground 5 changes, would only offer minor reductions of the delay. And 6 that neither of the proposed on the ground changes addresses 7 delays caused by cars going westbound on Strathmore turning 8 into the Academy, which is a big source of the current delay. 9 She, in my view, was unable to explain in layman's terms how 10 these two changes would create a 40 times reduction in the 11 delay at that intersection. And I think that undermines all 12 conclusions -- related conclusions in the study on the issue. 13 The same concern applies to the reduction in delay 14 reported in the supplemental analysis, which seems to be what 15 they want to rely on more now. Plus, we have what I think is 16 a very curious fact that the supplemental analysis starts 17 with an existing condition delay that is less than the LATR 18 delay for the a.m. peak at that intersection. But in the 19 future conditions, the supplemental analysis projected delay 20 is higher, the 77 seconds versus the 10.7 seconds in the 21 LATR. 22 And I just -- I can't understand this. The 23 parameters were -- I know there were some differences, but 24 both relied on the 2013 historic counts as a starting point 25 and then there were adjustments. The LATR did also look to</p>

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<p>396</p> <p>1 counts from 2005, but it did note that those counts were 2 consistent with the 2013 counts. So I just can't figure out 3 how these different reductions come out. I guess it's a 4 somewhere in the modeling which I can't understand. The 5 technical attachments are incomprehensible to a layperson so 6 again, I think it undermines the conclusions about traffic. 7 Now, the developer chose not to just point to the 8 LATR to conclude that no mitigation was required as is the 9 conclusion that report. Which in that report was accepted by 10 the planning staff with little mention of the supplemental 11 analysis with the whole traffic light, left turn signal 12 issue. Instead, the developer has said they are committed to 13 funding a traffic light and left turn lane on Strathmore. 14 It's not certain that those will occur as they require 15 approval from the Maryland SHR. 16 And there is also uncertainty about whether even 17 with the two on the ground changes and even with the traffic 18 light and left turn signal that it will actually mitigate the 19 traffic problem, which one reason I suggested this study 20 afterwards when the proposed project is up and running to see 21 if all these projections have any basis in reality, or we 22 still have a huge problem made worse by this development. 23 But as we heard there is pushback from the Applicant about 24 even doing this. 25 And one of my concerns about the whole application</p>	<p>398</p> <p>1 affect to the traffic because I think the officer would be 2 more effective than the traffic light. 3 Finally, Mr. Sloan testified, I think several 4 times, that there is still a lot of planning left to do. And 5 the Maryland SHA did not want to testify because they said my 6 concerns, when I raised them to them before the planning 7 board hearing, could be addressed later. And frankly, the 8 whole thing about the 40 times reduction in the delay seemed 9 news to them. I don't know how they missed it. They seem to 10 think it was a good concern that they didn't want to address 11 it until later. 12 I'm trying to figure out where I am. 13 So try to sum it up, you are being asked to 14 recommend an action to the county council and they will be 15 asked whether to approve this zoning change in the face of 16 this uncertainty, and planning that has not yet occurred. I 17 suggest that anything that is not certain to occur should not 18 be considered, or at least, should be weighed with some kind 19 of skepticism. 20 If there is some way to ensure the traffic light 21 and left turn lane and continued use of the police officer 22 were certain to occur, it would help. I think my second 23 condition about the study would also help. Now, Ms. Girard 24 asserted that the planning staff and the MCDOT and the 25 Maryland HSA (sic) have reviewed and essentially signed off</p>
<p>397</p> <p>1 process and the approval but board and the ultimate approval 2 going forward is that there are a lot of uncertainties. You 3 know, in addition to the traffic and traffic light, the 4 extension of the proposed property path beyond its eastern 5 boundary depends on the granting of a property right to the 6 developer from the church across the church's property. And 7 without this extension is my view that this path is virtually 8 worthless. And it undermines the walkability argument for 9 this project. 10 The newly disclosed potential path from the 11 proposed development's western path across the creek to link 12 up with the Symphony Park path would require agreement from 13 Symphony Park homeowners, which is uncertain to occur, and 14 probably wouldn't. The developer's civic engineer was not 15 even aware of this idea. And the landscape consultant, to 16 his credit, agreed it would not be an easy thing to do even 17 with the approval from Symphony Park. 18 The statement yesterday and today that Holy Cross 19 Academy is committed to having a police officer at the school 20 entrance even if there is a traffic signal and left turn 21 lane, it was news to me. It's not anywhere in the record 22 that I'm aware of before her statement yesterday -- or her 23 statement today. But even if the Academy honors that 24 commitment initially there is uncertainty whether they would 25 continue to do it. So if they stop, obviously that would</p>	<p>399</p> <p>1 on this proposal. I want to note that none of them testified 2 at this hearing. And so none of them were subject to cross- 3 examination. So to the extent their actions and reports are 4 relied on, again, I think they should be weighed with 5 skepticism because they were not subject to cross- 6 examination. 7 And finally, just remember what I started with 8 that the negative impacts of this zoning change fall on the 9 neighbors, but the benefits of the expanded zoning will 10 benefit the developer. Thank you very much. 11 HEARING EXAMINER BAUMGARDNER: Thank you very 12 much, sir. 13 So that concludes the testimony and argument state 14 of this LMA hearing. Going forward the process is that I 15 have 45 days from the close of the record in this case to 16 issue my recommendation to the county council, sitting as the 17 district council. Any party who is not satisfied with that 18 recommendation can request oral argument in front of the 19 county council. 20 The exhibits that are currently up on our web 21 pages, which are Exhibits 1 through 80, unless there's any 22 objection to an individual exhibit, will be admitted into the 23 record. We also have three -- four to five additional 24 exhibits which have been introduced here today, which will 25 also be admitted into the record. They will be exhibited</p>

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<p style="text-align: right;">400</p> <p>1 and added to the record. As I mentioned before, I don't have  2 those exhibit numbers right now, but they will be Exhibits 81  3 through 85, I believe, or 86. They will also be admitted  4 into the record.  5 With that were there any final issues that needed  6 we needed to address before we close this hearing today?  7 MS. GIRARD: I don't have --  8 MR. SHAFFER: One final thing. This Mr. Shaffer.  9 There was -- we were having trouble uploading Kip Edwards  10 video to introduce as evidence. Has that been now made part  11 of the record or are we still trying to find a way to get  12 that to you?  13 HEARING EXAMINER BAUMGARDNER: I don't believe we  14 have introduced that into the record. I remember seeing -- I  15 remember being copied on an email quite a while ago on that.  16 But I don't know what ever happened to that request.  17 What was that video of?  18 MR. SHAFFER: That was the traffic count.  19 HEARING EXAMINER BAUMGARDNER: Okay.  20 MR. EDWARDS: The email had -- this is Kip  21 Edwards. The email that I sent submitting it had a link to  22 the file.  23 HEARING EXAMINER BAUMGARDNER: Okay.  24 MR. EDWARDS: The video file online. It was too  25 large to send over email, obviously.</p>	<p style="text-align: right;">402</p> <p>1 we will submit the stormwater calculations. Whatever Mr.  2 Amateau agreed to provide, we will provide that in the next  3 couple of days.  4 HEARING EXAMINER BAUMGARDNER: Thank you. It was  5 volume impervious area --  6 MS. GIRARD: Yes.  7 HEARING EXAMINER BAUMGARDNER: And there as one or  8 two other calculations that went into that. But yes, that  9 would be great and we'll include that as an exhibit.  10 All right. With that --  11 MS. BENNET: Mr. Baumgardner, this is Gerrilee  12 Bennett from the town of Garrett Park. I just had a  13 logistical question about the public availability of the  14 exhibits after the hearing because your website indicates  15 they all get removed after the hearing so that you can  16 prepare for the next hearing. So it's unclear to me whether  17 by keeping the record open all of these exhibits will be  18 still publicly available on your website. I just want to  19 make sure we don't miss the opportunity to download all the  20 new materials.  21 HEARING EXAMINER BAUMGARDNER: Sure. So the  22 website is a bit of mirage. It's merely what we think is the  23 most updated versions of things. The actual record itself is  24 the paper file. So that's what's kept in perpetuity, for at  25 least for seven years. So for those future exhibits, you're</p>
<p style="text-align: right;">401</p> <p>1 HEARING EXAMINER BAUMGARDNER: Sure. Sure. So  2 what we're going to do, we're going to keep the record open  3 for 10 days after today's date anyway. That's to get a copy  4 of the transcript. So in those -- in that window of 10 days  5 Ms. Girard, is there any objection for at least viewing that  6 video to see its contents and then we can, at that point,  7 decide whether or not it comes in as a separate exhibit?  8 MS. GIRARD: No, we were aware of the video at the  9 planning board and Ms. Wagner already testified to it, so we  10 don't have an objection.  11 HEARING EXAMINER BAUMGARDNER: Okay. So I will  12 view it, just in camera and then if there's -- you know, I  13 don't -- based upon that testimony and the fact that it was  14 already in front of the planning board and we have a  15 voluminous exhibit from the planning board that is included  16 in the record, I don't think that will have a problem coming  17 in as a separate exhibit.  18 How we do that, I'll have to ask staff about how  19 we physically take that digital file and include that in the  20 record because to be honest, I don't know how we do that.  21 But I can let you all know how that will transpire after I  22 talk with staff about that.  23 Any other final issues or questions before I close  24 today's hearing?  25 MS. GIRARD: I just wanted to note that we do --</p>	<p style="text-align: right;">403</p> <p>1 welcome to email our staff and then we can send those to you  2 either in PDF or word format depending upon what format they  3 are in.  4 So that website will come down. We have a hearing  5 on Friday, so those exhibits will likely come down in the  6 very near future. But they will all remain available and  7 accessible. We may just have to email them to parties that  8 requested them.  9 All right. Any other questions? All right. We  10 thank everyone for your time. We think the court reporter as  11 well for his time, and we are going off the record in LMA  12 143. It is February 1, 2022, the time is approximately 3:27  13 p.m.  14 We thank everyone for your time and your  15 testimony, and have a good rest of your Tuesday afternoon.  16 (The recording was concluded.)  17  18  19  20  21  22  23  24  25</p>

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CERTIFICATE OF TRANSCRIBER

I, Molly Bugher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording as provided; and that I am neither counsel for, related to, nor employed by and of the parties to this case and have no interest, financial or otherwise, in its outcome.



Molly Bugher, CDLT-161

Date: February 10, 2022

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